

JEFFREY MILYO, PhD

8/26/2014

1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MARK VEASEY, et al.,	§	
	§	
Plaintiffs,	§	
	§	
vs.	§	Civil Action Number
	§	2:13-cv-193(NGR)
	§	
	§	
RICK PERRY, et al.,	§	
	§	
Defendants.	§	

ORAL DEPOSITION OF

JEFFREY MILYO, PhD

AUGUST 26, 2014

ORAL DEPOSITION OF JEFFREY MILYO, PhD,
produced as a witness at the instance of the
Plaintiffs Texas State Conference of NAACP Branches,
Mexican American Legislative Caucus of the Texas
House of Representatives, and duly sworn, was taken
in the above-styled and numbered cause on AUGUST 26,
2014, from 8:59 a.m. to 6:30 p.m., before Melody
Reneé Campbell, CSR in and for the State of Texas,
reported by method of machine shorthand, at the Law
Offices of Dechert LLP, 300 West Sixth Street,
Austin, Texas, pursuant to Notice the Federal Rules
of Civil Procedure.

A P P E A R A N C E S
FOR PLAINTIFFS TEXAS STATE CONFERENCE OF NAACP
BRANCHES, AND THE MEXICAN AMERICAN LEGISLATIVE
CAUCUS OF THE TEXAS HOUSE OF REPRESENTATIVES:

Mr. Ezra D. Rosenberg, Esq.

Dechert LLP

902 Carnegie Center, Suite 500

Princeton, New Jersey 08540

609.955.3222

Ezra.Rosenberg@dechert.com

-and-

Ms. Lindsey Cohan, Esq.

Dechert LLP

500 West Sixth Street, Suite 2010

Austin, Texas 78701

512.394.3027

Lindsey.Cohan@dechert.com

-and-

Mr. Vishal Agraharkar, Esq.

The Brennan Center for Justice at NYU Law
School

161 Avenue of the Americas, Floor 12

New York, New York 10013

Vishal.Agraharkar@nyu.edu

(Via Teleconference)

-and-

Mr. Mark A. Posner

Lawyers' Committee for Civil Rights Under Law

1401 New York Avenue, N.W., Suite 400

Washington, D.C. 20005

204.662.8389

MPosner@lawyerscommittee.org

FOR THE PLAINTIFF-INTERVENORS TEXAS LEAGUE OF YOUNG
VOTERS EDUCATION FUND, ET AL.:

Ms. Tania Faransso, Esq.

Wilmer Cutler Pickerin Hale and Dorr

1875 Pennsylvania Avenue, NW

Washington, DC 20006

202.663.6000

Tania.Faransso@wilmerhale.com

(Via Teleconference)

1 A P P E A R A N C E S - Cont'd

2 FOR THE UNITED STATES OF AMERICA:

3 Mr. Daniel J. Freeman, Esq.
4 Mr. Richard A. Dellheim, Esq.
5 U.S. DEPARTMENT OF JUSTICE
6 NWB Room 7524
7 950 Pennsylvania Avenue, NW
8 Washington, DC 20530
9 202.305.4355
10 202.307.3961 (Fax)
11 Daniel.Freeman@usdoj.gov
12 Richard.Dellheim@usdoj.gov
13

9 FOR THE DEFENDANTS THE STATE OF TEXAS, ET AL.:

10 Mr. S. Ronald Keister, Esq.
11 Office of the Attorney General
12 Post Office Box 12548
13 Austin, Texas 78711
14 512.463.2197
15 Ronny.Keister@oag.state.tx.us
16

14 FOR THE ORTIZ DEFENDANTS:

15 Mr. Robert W. Doggett, Esq.
16 Texas Rio Grande Legal Aid, Inc.
17 4920 North IH-35
18 Austin, Texas 78751
19 512.374.2725
20 512.447.3940 (Fax)
21 RDoggett@trla.org
22 (Via Teleconference)
23

20 ALSO PRESENT:

21 Mr. Toby Moore, U.S. Dept of Justice
22
23
24
25

JEFFREY MILYO, PhD

8/26/2014

4

I N D E X

PAGE

EXAMINATION

BY MR. ROSENBERG.....	7
BY MR. FREEMAN.....	161
CHANGES AND SIGNATURE.....	306
REPORTER'S CERTIFICATE.....	307

E X H I B I T S

NO.	DESCRIPTION	PAGE
-----	-------------	------

1	Rebuttal Declaration of Jeffrey Milyo	9
2	Supplemental Rebuttal Declaration of Jeffrey Milyo	10
3	Rebuttal Declaration of Jeffrey Milyo	10
4	Motivated Skepticism in the Evaluation of Political Beliefs	36
7	Texas Voter Identification Study/Barreto and Sanchez	36
5	"The Influence of Partisan Motivated Reasoning on Public Opinion" By Bolsen, Druckman, Cook	36
6	"From Voter ID to Party ID: How Political Parties affect Perceptions of Election Fraud in the U,S." By Emily Beaulieu	36
8	Barreto/Sanchez Expert Report	36
9	Second Amended Notice of Deposition	36
10	Row Numbers of Some of the Problematic Observations in Barreto and Sanchez Survey Data	36
11	"The Effects of Photographic Identification on Voter Turnout in Indiana: A county-Level Analysis, by Jeffrey Milyo	179

JEFFREY MILYO, PhD

8/26/2014

5

1	EXHIBITS - Cont'd		
	NO.	DESCRIPTION	PAGE
2	12	"Much Ado About Nothing? An Empirical	189
3		Assessment of the Georgia Voter	
4		identification Statute, by Hood and	
5		Bullock	
6	13	Declaration of Stephen Ansolabehere	230
7	14	Affidavit of Jeffrey Milyo, in Support of	254
8		Intervenors Dale L. Morris and Missouri	
9		Senator Delbert Scott	
10	15	"How Postregistration laws Affect the	284
11		Turnout of Citizens Registered to Vote,"	
12		by Wolfinger, Highton and Mullin	
13	16	Caltech/MIT Voting Technology Project,	294
14		"The Effect of Voter Identification Laws	
15		on Turnout," by Alvarez, Bailey, Katz	
16	17	"An Empirical Bayes Approach to Estimating	298
17		Ordinal Treatment Effects," by Alvarez,	
18		Bailey, Katz	
19	18	"The Empirical Effects of Voter-ID Laws:	300
20		Present or Absent?" By Mycoff, Wagner,	
21		Wilson	

--*-*

1 MR. ROSENBERG: Before we begin,
2 we'll put our appearances on the record. Ezra
3 Rosenberg on behalf of the Texas State Conference of
4 NAACP Branches and the Mexican-American Legislative
5 Caucus.

6 MR. POSNER: Mark Posner for the same
7 clients.

8 MR. FREEMAN: Dan Freeman on behalf
9 of the United States.

10 MR. DELLHEIM: Richard Dellheim for
11 the United States.

12 MR. MOORE: Toby Moore for the United
13 States.

14 MS. COHAN: Lindsey Cohan for the
15 same clients as Mr. Rosenberg and Mr. Posner.

16 MR. KEISTER: Ronny Keister for the
17 defendants.

18 MR. ROSENBERG: And I just heard
19 another beep, so I think there are three people on
20 the line. Could they enter their appearances,
21 please?

22 MS. FARANSSO: This is Tonia Faransso
23 on behalf of the Texas League of Young Voters.

24 MR. AGRAHARKAR: This is Vishal
25 Agraharkar on behalf of Texas NAACP and MALC.

1 MR. DOGGETT: This is Robert Doggett
2 on behalf of the Ortiz plaintiffs.

3 JEFFREY MILYO, PhD,
4 having been first duly sworn, testified as follows:

5 EXAMINATION

6 BY MR. ROSENBERG:

7 Q. Okay. Is it Dr. Milyo or Professor Milyo?
8 Which do you prefer?

9 A. I'm easy. Whichever you prefer. You can
10 call me Mr. Milyo, if you like.

11 Q. I'll try Professor Milyo. Is that good?

12 A. That would be fine. That's what my wife
13 calls me.

14 Q. Mine doesn't.

15 Professor Milyo, first of all, have
16 you ever been deposed before?

17 A. Yes, I have.

18 Q. How many times?

19 A. I believe it's three times.

20 Q. Okay. We will get into what they were.
21 But even though you've been deposed in the past,
22 it's always helpful to refresh your knowledge of
23 what the instructions are for these kinds of
24 proceedings.

25 You understand that you're under

1 oath?

2 A. Yes.

3 Q. You understand that what you're saying is
4 being taken down by the court reporter?

5 A. Yes.

6 Q. And it's going to be put into a little
7 book called the transcript that may be used in these
8 proceedings. Do you understand that?

9 A. Yes.

10 Q. And because of that, it's important that
11 you understand the questions that I ask before you
12 answer. Okay?

13 A. Yes.

14 Q. If you don't understand, please tell me
15 right away, and I will do my best to clarify things
16 for you. Okay?

17 A. I will do my best.

18 Q. It's also important -- you've been doing
19 very good so far -- that you answer orally. Shrugs
20 of the shoulder, nods of the head can't be taken
21 down by the court reporter. Okay?

22 A. I will do my best.

23 Q. And, also, this is not meant to be a test
24 of endurance for anyone but me. So if at any time
25 you need a break, so long as there's not a question

1 pending, please tell me, and we'll take a break.

2 Okay?

3 A. Yes.

4 Q. Do you have any questions of me before we
5 begin?

6 A. Not at this time.

7 Q. Is there any reason that you're not able
8 to testify completely and honestly and accurately
9 today?

10 A. I don't believe so.

11 Q. Okay. Great. By the way, what's your
12 date of birth?

13 A. I was born on April 9th, 1964.

14 Q. Okay. And let me mark, because we'll
15 probably be referring back to them from time to
16 time, a few documents. And we'll mark this one as
17 the first document. We'll call that Milyo 1.

18 (Exhibit Number 1 marked.)

19 Q. (BY MR. ROSENBERG) And if you could look
20 at that and tell me what Milyo 1 is.

21 A. This appears to be a copy of a report that
22 I did. I'm trying to check, based on the date,
23 whether it included some corrections or not. And
24 actually I'm blanking on the date, whether it's the
25 latest or not.

1 Q. I'll help you. Let's have this one marked
2 as Milyo Exhibit 2.

3 (Exhibit Number 2 marked.)

4 A. This probably helps. So this looks to
5 be --

6 MR. KEISTER: You have to say --

7 Q. (BY MR. ROSENBERG) This being Milyo
8 Exhibit 2.

9 A. Milyo 2. I'm sorry. Milyo 2 appears to
10 be -- it's titled Supplemental Rebuttal Declaration,
11 so this was done shortly after the Rebuttal
12 Declaration.

13 Q. Is it fair to say that Milyo Exhibit 2
14 supersedes Milyo Exhibit 1 in the sense that Milyo 1
15 and Milyo 2 are identical except for several
16 changes? And we can go through what those changes
17 are. But, otherwise, they are completely identical?

18 A. I believe there are a handful of changes.
19 And my recollection is that they are otherwise
20 identical.

21 Q. And just to perhaps make it easier in
22 terms of the changes, let me give you another
23 exhibit which we'll mark as Milyo Exhibit 3.

24 (Exhibit Number 3 marked.)

25 Q. (BY MR. ROSENBERG) And if you'll look at

1 that, I will represent to you that that's a document
2 that was sent to me by David Whitley from
3 Mr. Keister's office. And he was kind enough to
4 send me a redlined copy of Milyo Exhibit 2. And if
5 you want to take a look at that and see if that, in
6 fact, contains the changes.

7 And I'm looking at them, making sure
8 I've given you the right document because I don't
9 want -- yes. Okay.

10 I think you can look through each
11 page and you'll see that there are redline changes.

12 A. Milyo 3 has a date of August 1st. So it's
13 not immediately clear to me how this would be the
14 same as Milyo 2.

15 Q. That's interesting. And when you say date
16 of August 1st on the signature page -- huh. That
17 will be something that we'll have to ask some
18 questions about, then. Because I will represent
19 that I did receive this from Mr. Whitley's office as
20 your report. But thanks for pointing that out.

21 Then what we'll do is, we will use
22 Milyo Exhibit 2 as the operative report. Is that
23 fair?

24 A. I don't know. You've got three reports in
25 front of me.

1 Q. 2. I said Exhibit 2.

2 A. Yes. What I'm trying to answer is, you've
3 just represented to me that Milyo 3 is more recent
4 than Milyo 2.

5 Q. No, no.

6 A. I know that it has a title that's the same
7 as Milyo 1 and not Milyo 2. So I'm a little
8 confused with what you're handing me and what you're
9 representing.

10 Q. And I appreciate that, because I'm equally
11 confused. As I said, I received this one from the
12 Attorney General's Office.

13 But we'll use Milyo Exhibit 2, which
14 you have identified. Is that correct?

15 A. I have not looked at it at length. So it
16 appears to be a copy of the most recent report.

17 Q. Right. And we'll -- and you have the
18 right and the ability to look at it for as long as
19 you want, if you want to make sure it is what we're
20 saying it is. Okay?

21 All right. Looking at Milyo
22 Exhibit 2, it contains -- no, it actually doesn't.
23 We'll use Milyo Exhibit 1 because that's the only
24 one that contains your CV.

25 So let's just take a look at your CV

1 that's attached to Milyo Exhibit 1. Okay. Is that
2 your CV?

3 A. This looks to be a copy of my CV, yes.

4 Q. Great. And just for the court reporter's
5 knowledge, this document has been marked as highly
6 confidential. So the testimony concerning Professor
7 Milyo's reports, at least for present purposes, will
8 be deemed highly confidential because it was so
9 designated by the Attorney General's Office.

10 MR. KEISTER: Okay.

11 Q. (BY MR. ROSENBERG) Have there been any
12 updates to your CV since you submitted this report?

13 A. I don't recall making an update. Updates
14 to my CV are something I do on a running basis, so I
15 don't want to answer that with 100 percent
16 confidence. But I don't recall any substantive
17 updates.

18 Q. Okay. Are there any updates you would
19 want to make that aren't -- that you didn't make?

20 A. I haven't thought about it.

21 Q. Okay. A few quick questions. From 1986
22 to 1994, throughout the time, were you trying to get
23 your PhD at Stanford, or were you doing something
24 else also?

25 A. During that time, I did other things.

1 Q. Are they listed on your resume?

2 A. I don't believe so.

3 Q. What other things did you do?

4 A. I'm going off of my recollection, off the
5 top of my head. Let's see. Is there a year you
6 would like to start in?

7 Q. 1986.

8 A. Let's see, that was a while ago. I
9 believe -- to the best of my recollection, you'll
10 understand.

11 Q. Sure.

12 A. -- that I graduated the University of
13 Connecticut in May or June of that year, whatever
14 the regular graduation date was. I don't recall my
15 summer employment offhand.

16 The next fall of 1986, I began the
17 doctoral program at Stanford University.

18 Q. Other than being in the doctoral program
19 at Stanford University between 1986 and 1994, did
20 you have any other employment?

21 A. Yes.

22 Q. With whom?

23 A. Would you like to do this chronologically?

24 Q. Sure, let's do it chronologically.

25 A. Okay. And, again, this is to the best of

1 my recollection. It's not something -- obviously
2 it's not on the CV.

3 Q. Understood.

4 A. So -- in 1986, I'm fairly certain I would
5 have worked some sort of summer employment that
6 year, although we're talking about 28 years ago, I
7 guess, so you'll have to forgive me. My mind is a
8 little fuzzy. I could hazard a guess if that were
9 important to you.

10 Q. Well, I don't want you to guess. Just
11 tell me what you remember.

12 A. And so the fall of 1986, I believe I was
13 on a fellowship at Stanford that first year, so that
14 would not be considered employment.

15 Q. Okay. What's next?

16 A. Well, next would be 1987. As we move into
17 the spring of 1987, I would still be on fellowship
18 at Stanford University.

19 That summer of 1987, I believe I had
20 another fellowship that supported some independent
21 research activity during the summer. Or maybe it
22 would be better characterized as independent study
23 activity.

24 Q. Who funded that fellowship?

25 A. That was -- to the best of my

1 recollection, that would have been Stanford
2 University.

3 Q. Next?

4 A. That brings us to the fall of 1987. And I
5 apologize for going by seasons, but these things are
6 tied to the academic year.

7 Q. Let me make it a little easier for you.
8 Other than fellowships that were funded by Stanford
9 University between 1986 and 1994, did you have any
10 other employment?

11 A. Yes.

12 Q. What?

13 A. Well, that's what we've been doing.

14 Q. Well, yeah. I know. But you keep giving
15 me the fellowships that were funded by Stanford
16 University.

17 A. I'm sorry. You said that I should go
18 chronologically.

19 Q. Yeah. I'm trying to make it easier for
20 both of us.

21 Other than the fellowships that were
22 funded by Stanford University between 1986 and 1994,
23 did you have any other employment?

24 A. Yes.

25 Q. What?

1 A. Would you like to go chronologically?

2 Q. Sure.

3 A. Okay. It helps with my recollection.

4 Q. Okay.

5 A. I -- I mean, we are going back over a
6 couple of decades, and I'm trying to be thorough.

7 Q. I understand.

8 A. 1987, I would have begun work at Stanford
9 as a teaching assistant. Throughout the academic
10 year of 1987-88, I would have worked as a teaching
11 assistant, to the best of my recollection.

12 Q. Let me make it even easier. Other than
13 fellowships funded by Stanford University or
14 employment at Stanford University, did you have any
15 other employment between 1986 and 1994?

16 A. Yes.

17 Q. Where?

18 A. I'm trying to answer your -- it will get
19 more exciting as we move closer to the future.

20 Q. I'm hoping. I'm on the edge of my seat.

21 A. I believe we left off at the summer of
22 1988. And I -- you know, the years run together a
23 little bit. I'm trying to remember. This would
24 have been after my second year of grad school.

25 I think that's the summer that I

1 worked at the Rand Corporation in Santa Monica.

2 Q. And what were you doing at the Rand
3 Corporation?

4 A. They hire doctoral students in the summer
5 to do research.

6 Q. And did you have any specific research
7 project?

8 A. Let's see, I can recall a couple of
9 projects.

10 Q. And what can you recall?

11 A. One project had to do with reviewing a
12 report by a consulting firm on the defense
13 industrial base.

14 Another project had to do with
15 looking into the feasibility of collecting data on
16 fixed price contracts versus other forms of
17 contracting for the military, for the purpose of
18 supporting future research. Those are two things I
19 remember specifically.

20 We're also given time to work on our
21 own research.

22 Q. After the Rand Corporation, what's the
23 next non-Stanford funded, either employment or
24 fellowship, employment that you recall?

25 A. I believe in the fall of 1988 -- but,

1 again, this is subject to the best of my
2 recollection. Sitting here, I haven't thought about
3 these things in many, many years.

4 I believe in the fall of '88, I began
5 work at -- I was an instructor at San Francisco
6 State University.

7 Q. And what were you teaching?

8 A. In the fall of '88, I believe I taught
9 principles of microeconomics.

10 Q. What's the next --

11 A. Possibly two sections of that.

12 Q. What's the next job you recall?

13 A. In the spring -- that would bring us to
14 1989 -- I continued teaching at San Francisco State,
15 teaching at least one section of macroeconomics. I
16 don't recall whether the other was micro or macro.

17 That brings us to the summer of '89.
18 That may have been -- this is harder than what it
19 might seem.

20 But I think that summer I had a
21 fellowship from the law school at Stanford or via
22 the law school at Stanford and -- to support my own
23 research.

24 Q. And at the time what was the research that
25 you were doing?

1 A. Let's see, I believe I was looking at
2 competitiveness in State legislative elections,
3 broadly speaking.

4 Q. And when you say, "Competitiveness in
5 State legislative elections," what do you mean?

6 A. Although now that I'm -- you know, these
7 things are fuzzy over decades. It might have also
8 have been looking at the federal budget process.
9 It's hard to say, with certainty, what I was doing
10 in the summer of 1989. I may have even been looking
11 at both.

12 Q. And when you say, "Competitiveness in
13 State legislative elections," what do you mean?

14 A. Competitiveness, I mean it as a broad term
15 that might cover a number of different types of
16 outcome studies.

17 Q. What does that mean?

18 A. Well, in the literature, competitiveness
19 can be measured by the rate at which either
20 incumbents win reelection or members of a particular
21 party win reelection.

22 It may be measured by the vote share
23 of incumbents or the vote share of winning
24 candidates.

25 Q. And was that what you were looking at?

1 A. Well, as I said, I'm kind of hazy on the
2 summer of 1989, exactly what I was looking at at
3 that time.

4 Q. And let's go beyond the summer of 1989.
5 What is the next thing you remember that you did
6 that was not Stanford funded?

7 A. We're getting into the period where I
8 believe I was dating the woman who became my wife,
9 and so I'm getting hazier on the work part of what I
10 was doing.

11 Q. Right. And you weren't paid for that?

12 A. Not a monetary salary.

13 Let's see, we're into the fall of
14 1989. I believe I was still working as a teaching
15 assistant at Stanford then. That would have been
16 the '89-90 academic year. I may have been the head
17 teaching assistant at that time. That, I think,
18 brings us to the summer of '90?

19 Q. I think so.

20 A. You know, I had a number of fellowships
21 during that time. It's difficult to recall exactly.
22 So what I answered for '89 might have been for '90.

23 Q. Understood.

24 A. I don't recall other employment in the
25 summer of '90.

1 Q. Okay. Any other non-Stanford-related
2 employment between '90 and '94?

3 A. Yes.

4 Q. Where?

5 A. Can we continue chronologically?

6 Q. Absolutely.

7 A. I find it helpful.

8 Q. Okay.

9 A. Such as it is. Continuing into the fall
10 of '90, then I'm pretty confident I was the head
11 teaching assistant then at Stanford for that
12 academic year, '90 -- what are we talking about?
13 That would be the fall of '90-'91.

14 I may need to look at the inside of
15 my ring. I think it was in the summer of '91 I was
16 married, so I don't believe I had outside employment
17 other than with Stanford until we get to about
18 August 1991.

19 Then I had a postdoctoral fellowship
20 from Washington University in St. Louis, and I was a
21 visiting instructor in the political science
22 department at Washington University.

23 Q. And other than your positions at Wash U
24 and continuing relationship with Stanford, did you
25 have any other positions or employment between then

1 and 1994?

2 A. Yes.

3 Q. Where?

4 A. Continuing chronologically, the Wash U
5 fellowship was during the academic year of '91-'92.
6 We then moved to the Boston area where I was on the
7 faculty at Tufts University, and I believe -- so
8 that takes us into 1992-93 academic year. That was
9 full-time employment. That continued until my
10 completion of my PhD, at which time then I began --
11 now we're on to the CV here.

12 Q. Excellent. I was going to say, that
13 wasn't that hard, but it was.

14 And you stayed at Tufts until 2000.
15 Is that correct?

16 A. Yes.

17 Q. Why did you leave Tufts?

18 A. I had an employment offer from the
19 University of Chicago.

20 Q. Had you been offered tenure at Tufts?

21 A. I was not offered tenure at Tufts.

22 Q. Were you denied tenure at Tufts?

23 A. I was up for tenure and I was denied
24 tenure at Tufts. That is correct.

25 Q. And then you went to University of Chicago

1 to the Harris School, and you were there from
2 2000-2004. Were you in a tenure track position at
3 the Harris School?

4 A. Yes, I was in a tenure track position at
5 the Harris School.

6 Q. Were you offered tenure in Chicago at the
7 Harris School?

8 A. I was not offered tenure at the University
9 of Chicago.

10 Q. Were you denied tenure at the University
11 of Chicago?

12 A. I was put up for tenure and did not
13 receive tenure at the University of Chicago.

14 Q. And you are tenured at the University of
15 Missouri now?

16 A. Yes, I am tenured at the University of
17 Missouri.

18 Q. Now, you mentioned that you have been
19 deposed a few times in the past, and I think you
20 said three. When were those three times?

21 A. I believe I've put those in my report.
22 And that would probably be more reliable than my
23 recollection, without glancing back at it, if you're
24 looking for time periods.

25 Q. Okay. I'm looking at page 3 of your

1 report.

2 A. Okay. Would you tell me which Milyo
3 report you're looking at?

4 Q. Sure. We will -- now that we're, at least
5 to this point, through with your CV, let's go to the
6 Rebuttal Declaration, which is Milyo 2. And I
7 think, if you look at the bottom of page 2,
8 Paragraph 13, you mention producing expert reports
9 in state and federal election law disputes, and that
10 goes over into page 3.

11 Is that the paragraphs of the report
12 that you're referring to?

13 A. I believe your question was, when I have
14 been deposed?

15 Q. Yes.

16 A. Yes. This would help me to answer that
17 question.

18 Q. Okay. Does this information provide all
19 instance -- include all instances that you were
20 deposed?

21 A. I believe so, yes.

22 Q. Okay. Which of -- there are six cases
23 that are described on page 3. In which were you
24 deposed?

25 A. I believe it's quite clear from the text.

1 Q. Well, why don't you just tell me.

2 A. All right. In 2007, I produced an expert
3 report and was disposed [sic] in a dispute in
4 federal district court, et cetera. That would be
5 Paragraph D.

6 Q. Uh-huh.

7 A. In 2008, Paragraph E, I produced an expert
8 report and was deposed in a dispute in federal
9 court.

10 And in Paragraph F, I write, in 2011,
11 I produced a report and was deposed in a dispute in
12 federal court.

13 Q. And other than the cases that are
14 described on page 3 of the report, have you been
15 retained as an expert in any other kinds of cases?

16 A. I'm sorry, would you repeat the question?

17 Q. Sure. Other than the cases that are
18 described on page 3 of your report, have you been
19 retained as an expert in any other kinds of cases?

20 A. This case.

21 Q. Other than this case and the cases that
22 are described in page 3 of the report?

23 A. Not that I recall.

24 Q. Have you ever testified in court?

25 A. Not as an expert witness.

1 Q. Have you testified in court in any other
2 capacity?

3 A. The only thing I can think of that comes
4 to mind was in a jury selection procedure.

5 Q. Meaning you were in the venire and they
6 were trying to decide whether you would be sitting
7 on the jury or --

8 A. I don't know what you mean by venire.

9 Q. Okay. Why don't you tell me what you
10 recall about your testimony in a jury selection
11 procedure.

12 A. We were asked if we had any conflicts with
13 serving on the jury.

14 Q. Okay. So you were -- there was a decision
15 as to whether or not to impanel you as a juror. Is
16 that correct?

17 A. I'm not sure exactly what you mean by
18 impanel.

19 Q. Okay. Well, we'll get back to that maybe.
20 Have you ever been qualified as an
21 expert in any proceeding?

22 A. That sounds like a technical term as
23 you're using it, and I'm not quite sure exactly what
24 you mean.

25 Q. Have you ever been disqualified -- or let

1 me ask. Have you ever been disqualified as an
2 expert in any proceeding?

3 A. Again, that sounds like a technical term,
4 and I'm not exactly sure what you mean.

5 Q. And which term are you having trouble
6 with?

7 A. Well, I'm not exactly sure -- lawyers use
8 terms with particular meaning. That would be
9 different than common parlance.

10 Q. Well, you can use whatever meaning you
11 ascribe to whatever word you want. Tell me what
12 word you're having trouble with.

13 A. You put emphasis on the word "qualified,"
14 so I'm not quite sure exactly what you mean by that.

15 Q. Have your -- have you been accepted as an
16 expert by the court in any proceeding?

17 A. I don't know exactly what that means.
18 When I have served as an expert witness, I've
19 produced a report. I don't have legal training.

20 Q. Have you ever been in a proceeding where
21 the court did not accept your opinions?

22 A. What exactly do you mean by "accept"?

23 Q. Have you ever been in a proceeding where
24 the court found your opinions to be unreliable?

25 A. Again, I think you're using technical

1 terms about a court finding. And I think I can help
2 you out. Not being a lawyer, I don't know exactly
3 how to answer technical --

4 Q. Well, you know what the word "court"
5 means. Right? We have no problem with the word
6 "court."

7 A. A court. Yes.

8 Q. Right? All right. Do you have a problem
9 with the word "findings"?

10 A. Potentially.

11 Q. Okay. Would the word "rulings" be better
12 for you?

13 A. Potentially.

14 Q. Okay. Well, let's use the word "rulings."

15 Have you ever been in a proceeding
16 where the court ruled that your opinions were
17 unreliable?

18 A. Again, not being a lawyer, it's difficult
19 for me to answer. I was involved in a case where I
20 believe the entire case was thrown out. So I'm not
21 sure what that means for findings and rulings.

22 Q. What case was that?

23 A. I believe that was the 2011 Washington
24 State case.

25 Q. Did you read the court's opinion in that

1 case?

2 A. I recall glancing at a document.

3 Q. You recall glancing at a document. When
4 you glanced at it, did you read anything about
5 yourself?

6 A. That would have been the purpose for my
7 glancing.

8 Q. So the answer is yes?

9 A. I don't recall the specifics.

10 Q. You don't recall anything about it?

11 A. I don't believe I said that.

12 Q. Well, I'm -- then tell me what you recall.
13 Come on. You know, we're going to be here for a
14 long, long time. And quite frankly, we're going to
15 be here for longer than seven hours if this keeps
16 up, because I'll -- I have no problem with calling
17 the Court.

18 So I asked you a question. And
19 please tell me what you recall about the thing you
20 glanced at.

21 A. I will continue to try to answer you as
22 honestly and completely as I can.

23 Q. Well, go ahead, answer my question,
24 please.

25 A. It's difficult to go back in time to give

1 specific and detailed answers about a document that
2 I've glanced at.

3 Is this a document that you have that
4 you'd like to show me to refresh my memory?

5 Q. Let me go back and repeat what happened
6 here. I asked you if you read the opinion. You
7 said you glanced at it. I asked you if you remember
8 something. You said you didn't remember specifics.
9 I said, so you don't remember anything; you said, I
10 don't -- that's not what I said. So then I asked
11 you to tell me what you remember. And that's my
12 question.

13 A. I can tell you what I remember at this
14 time, sitting here, off the top of my head, and to
15 the best of my recollection.

16 One thing that I remember was that
17 the judge didn't like a phrase that I coined and
18 suggested that it was not a peer-reviewed phrase. I
19 recall being puzzled at that.

20 Q. Do you remember anything else?

21 A. I recall that the judge seemed to object
22 to the fact that I had been paid for my testimony.

23 Q. Do you recall anything else?

24 A. What I recall is a broad impression.

25 Q. And what's the broad impression that you

1 recall?

2 A. What I have said.

3 Q. When were you retained by the State in
4 this case?

5 A. I don't believe I was retained by the
6 State.

7 Q. Okay.

8 A. Oh, I'm sorry. Which case are you
9 referring to?

10 Q. I'm sorry. We're turning our attention to
11 this case, the case that you're here to testify
12 about.

13 And let me withdraw that question and
14 ask you: when were you first contacted by anyone
15 from the State of Texas in connection with this
16 case?

17 A. I can't recall an exact date.

18 Q. Can you recall a general date?

19 A. It probably would have been, to the best
20 of my recollection sitting here, if I had to pick a
21 date, maybe September 2013.

22 Q. Who contacted you?

23 A. I don't recall exactly.

24 Q. Do you recall the substance of the
25 conversation that you had with the person?

1 MR. KEISTER: And let me advise the
2 witness, don't go into specific details of
3 conversations with the attorneys. But you can tell
4 the general discussion.

5 A. I believe the general discussion would
6 have been about my willingness and availability to
7 be an expert in this case.

8 Q. (BY MR. ROSENBERG) Did you have an
9 understanding, as a result of that conversation, as
10 to what were the areas that the State was interested
11 in your being an expert on?

12 A. Beyond that it would have something to do
13 with voter identification?

14 Q. I don't know. You tell me.

15 A. I believe that I didn't have a specific
16 idea.

17 Q. In that conversation did you agree to be
18 retained as an expert by the State in this case?

19 A. I don't think it would have been in the
20 first conversation.

21 Q. When would it have been?

22 A. Possibly in a second or third
23 conversation.

24 Q. When was the next time you had a
25 conversation with someone from the State?

1 A. You're asking about a specific chronology,
2 and I just have to preface everything by saying,
3 it's not something I've devoted time to thinking
4 about, so I'm going off the top of my head.

5 It probably was in that same month.

6 Q. And in that second -- what was the nature
7 of that second conversation?

8 A. I really don't recall specifics.

9 Q. Do you recall with whom you were speaking?

10 A. Not exactly, no.

11 Q. Do you recall -- maybe I can refresh your
12 recollection. Was it John Scott?

13 A. It may have been, but I don't recall.

14 Q. Was it David Whitley?

15 A. I still don't recall.

16 Q. Was it Reed Clay?

17 A. No, I still don't recall.

18 Q. Was it Ronny Keister?

19 A. I don't recall.

20 Q. By the way -- I'll get back to this -- did
21 you prepare for this deposition?

22 A. Yes, I did.

23 Q. How did you prepare for this deposition?

24 A. I tried to get a good night's sleep and
25 drink plenty of water.

1 Q. Anything else?

2 A. Yes.

3 Q. What else?

4 A. I reviewed my report and I reviewed other
5 reports.

6 Q. Anything else?

7 A. There were a couple of journal articles I
8 looked at.

9 Q. Anything else?

10 A. I think I reexamined the dataset provided
11 by Barreto and Sanchez.

12 Q. Anything else?

13 A. I had some questions for the legal team.

14 Q. Anything else?

15 A. Not that I recall at this time.

16 Q. When you say you reviewed your report,
17 which version of your report did you review?

18 A. Well, since we're not sure what we're
19 looking at with Milyo 1, 2, and 3, it's hard for me
20 to translate it to that. It would have been, I
21 believe, my latest version of the report.

22 Q. And just so the record is clear, when you
23 say we're not sure what we're looking at in terms of
24 Milyo 1, 2, and 3, take a look again at Milyo 1, 2,
25 and 3 and tell me which is the latest version of

1 your report.

2 A. Well, you have represented to me that
3 Milyo 2 is the latest or 3? Now I can't recall. Do
4 you recall?

5 Q. What I represented to you was that Milyo 2
6 was your latest report and that Milyo 3 was a
7 redline version of your latest report that
8 Mr. Whitley had sent to me. You pointed out that
9 Milyo 3 had a date that was earlier than Milyo 2,
10 and I said, okay, let's go with Milyo 2.

11 So would you please identify which is
12 your latest report?

13 A. From the appearance and from the date, if
14 I were forced to guess, I would go with Milyo 2.

15 Q. All right. Is that the report you
16 reviewed yesterday in preparation for --

17 A. It is not literally the same copy, but it
18 was my intention to be reviewing the
19 latest supplemental --

20 MR. KEISTER: Counsel, let me --

21 MR. ROSENBERG: Yeah, I mean, I think
22 we have to take a break, Mr. Keister.

23 MR. KEISTER: Let's take a break.

24 (Recess.)

25 Q. (BY MR. ROSENBERG) Professor Milyo,

1 before we broke you had testified that you had
2 reviewed reports yesterday in preparation for your
3 deposition. Is that correct?

4 A. I don't believe I said yesterday.

5 Q. When did you review the reports?

6 A. Well, there are a large number of reports
7 and other things, so it would be difficult to give
8 an exact chronological ordering.

9 Q. I'm not asking for an exact chronological
10 ordering. When did you review the reports in
11 preparation for this deposition? Just over the last
12 few days, over the last few weeks?

13 A. This morning I took a glance at my own
14 supplemental report. I may have looked at some
15 other reports also, as well, in the morning.

16 Q. When you say, you may have, since it was
17 just this morning, did you look at any reports this
18 morning, other than your own?

19 A. Well, I did some last night and some in
20 the morning.

21 Q. Okay. What reports did you look at last
22 night?

23 A. I tried to take a look at some of the
24 supplemental reports from the other experts.

25 Q. Which experts?

1 A. The experts that did supplemental reports.

2 Q. Their names, if you remember.

3 A. Let's see, there was -- Barreto and
4 Sanchez did a supplemental report, and Ansolabehere
5 did a -- I'm not sure if it's titled Supplemental
6 Report, but a second report. Bazelon did another
7 report. Burden did a supplemental report. There's
8 a couple others in there, too.

9 Q. Webster?

10 A. I believe he did -- my recollection is
11 there's a supplemental report. I don't recall
12 looking at that one last night or this morning.

13 And then the fellow I always mix up
14 his name, whether it's Chandler Davidson or Davidson
15 Chandler.

16 Q. Chandler Davidson.

17 A. I'm not -- and then there's a Chapman.
18 And I'm not -- those -- I don't even recall if all
19 of them did supplemental reports. There are a lot
20 of experts and, you know, there were a number of
21 reports that I have glanced at in the last couple of
22 days.

23 Q. Had you seen those reports prior to the
24 last couple of days?

25 A. I'm trying to remember when I would have

1 received those reports. I assume it would have been
2 a few days earlier, certainly.

3 Q. And did you review them when you first
4 received them?

5 A. I certainly took a look at the
6 supplemental reports when I first received them,
7 yes.

8 Q. When you say, "took a look," what does
9 that mean?

10 A. Well, I'm trying to use a broad term that
11 would cover both glancing to see, you know, what the
12 general nature of the report was versus doing some
13 more detailed reading.

14 Q. Have you ever read them in detail?

15 A. Have I ever read --

16 Q. Read the supplemental reports in detail?

17 A. All of the supplemental reports?

18 Q. Yes.

19 A. Or any of the supplemental reports?

20 Q. Well, we'll start with any.

21 A. Well, I've had limited time to look at
22 them, so -- and I'm not quite sure what you mean by
23 detailed.

24 Q. Well, you used the word detail. I didn't.
25 I just used your word. So what did you mean by

1 detailed?

2 A. Well, let's put it this way. Some I
3 looked at in more detail than others.

4 Q. Which did you look at in detail or in more
5 detail, to use your words?

6 A. Probably the ones that had more relevant
7 statements related to my report.

8 Q. Which?

9 A. In terms of quantity?

10 Q. No. In terms of which report.

11 A. Well, as I said, I've looked at the Burden
12 report and the Barreto/Sanchez has something to say.
13 Ansolabehere has something to say. A couple of the
14 others may as well. It's not -- I haven't had as
15 much time to read or work with these.

16 Q. Dr. Milyo, you said you looked at certain
17 reports in more detail than others. And my question
18 is, which reports did you look at in more detail
19 than the others?

20 A. The ones that I'm having an easier time
21 recalling.

22 Q. Ansolabehere?

23 A. Ansolabehere, I've looked at, although
24 that's a particularly large report, so there are
25 portions of it that I looked at in detail.

1 And the Bazelon report -- again,
2 these things cover more than just what was relevant
3 to my -- my report.

4 Barreto and Sanchez, Burden. There's
5 so many experts, the names don't come easily to me.
6 If I had them in front of me, it would be easier.

7 Q. We'll get to that in a few minutes.

8 You also said you reexamined data
9 from Barreto and Sanchez. What data are you talking
10 about?

11 A. I received a file that -- the exact title
12 skips my mind. I believe it's what they provided.
13 It's something called like Final Clean Data. I did
14 transmit that in the documents-relied-upon file.

15 Q. And you also said you had questions for
16 the legal team. Without getting into the details of
17 what those questions were, what did you mean by
18 questions for the legal team? What -- were they
19 factual information that you needed?

20 MR. KEISTER: And let me caution you
21 to just give a general description. Don't give any
22 details.

23 A. The general description would be something
24 like, given there are so many plaintiffs and
25 lawyers, what does that mean for the process of

1 questioning? Is it done serially, et cetera? It
2 was sort of procedural.

3 Q. (BY MR. ROSENBERG) Did you meet with
4 anyone from the legal team in preparation for the
5 deposition?

6 A. Well, I don't -- you're using the word
7 "preparation." I had a brief phone call last night.

8 Q. Other than that brief phone call -- by the
9 way, with whom was that brief phone call?

10 A. I believe John Scott was on it for a
11 little while. And I apologize, I don't remember
12 your last name.

13 MR. KEISTER: Keister.

14 A. Keister, I believe, was on it. And I
15 think it was Whitley. I'm not sure if anybody else.

16 Q. (BY MR. ROSENBERG) How long was that
17 conversation?

18 A. I wasn't watching the clock, so maybe on
19 the order of 20 minutes.

20 Q. Other than that conversation, did you have
21 any other conversations or meetings with anyone from
22 the Texas Attorney General's Office in preparation
23 for the deposition?

24 A. I've certainly never met with any of them
25 in person. As sort of specific preparation for the

1 deposition, I don't recall. Any conversations I had
2 were more about logistics.

3 Q. All right. Let's get back to when you
4 were actually retained as an expert in this case.
5 And I think you said it was sometime around
6 September of 2013. Is that correct?

7 A. To the best of my recollection. You were
8 asking for a particular date, and I'm fairly
9 confident it would have -- would have been by then.

10 Q. And when you were retained as an expert,
11 what did you understand that your role would be in
12 this case?

13 A. My understanding is, the best I can recall
14 at that time, was that the plaintiffs would be
15 producing some reports and there would need to be a
16 response report.

17 Q. What areas of expertise were you -- was it
18 your understanding that you would be providing a
19 response report in?

20 A. Broadly regarding the effects of voter
21 identification laws.

22 Q. And when you say, "the effects of voter
23 identification laws," what do you mean?

24 A. Broadly, things that might be attributed
25 to voter identification laws.

1 Q. When you say, "things that may be
2 attributed to voter identification laws," what do
3 you mean?

4 A. I want to be responsive to your question.
5 Would it be satisfactory to give some examples?

6 Q. Sure, for starters.

7 A. An example might be, there's a literature
8 that looks at the effects of voter ID laws on voter
9 turnout.

10 Q. Any other examples?

11 A. There is a smaller literature that looks
12 at the effects of voter ID laws, broadly speaking on
13 voter confidence.

14 Q. Any other examples?

15 A. There are other academic studies that
16 would be broadly related to costs and benefits of
17 voting -- or voting laws and regulations.

18 Q. Any other examples?

19 A. I could probably go into more detail and
20 list a large number of examples. I don't think
21 that's what you're asking for. So I've given you
22 some examples.

23 Q. Just so it's clear, I'm asking for what
24 was in your mind as to your understanding of the
25 nature of the expertise that you would be lending to

1 this case at the time that you were retained.

2 A. Oh, okay. That as a political economist,
3 with some expertise in policy evaluation, that there
4 would be expert reports produced that I would then
5 review and comment on.

6 Q. And just so it's clear, you said, "as a
7 political economist with some expertise in policy
8 evaluation." Is that what you said?

9 A. I believe that is what I said.

10 Q. And what do you mean by "policy
11 evaluation"?

12 A. Broadly speaking, looking at the effects
13 of public policies on different kinds of outcomes.

14 Q. What is the nature of your experience in
15 the effects of public policies on different kinds of
16 outcomes?

17 A. I am a professor who has done research
18 broadly related to that issue, over a number of
19 years, have taught courses broadly related to that
20 issue a number of years. I've also participated in
21 some court proceedings that we have mentioned.

22 Q. Well, which public policies whose effects
23 you have studied, are you referring to?

24 A. Well, this would be easier to answer if I
25 could reference my CV. You're talking about a body

1 of work over decades again.

2 MR. KEISTER: And let me just
3 instruct the witness. Anytime you need to look at
4 your report or your CV, please do.

5 Q. (BY MR. ROSENBERG) I agree with
6 Mr. Keister.

7 A. So your question was about public policies
8 that I've examined?

9 Q. Right.

10 A. In answering that kind of question, I see
11 studies that look at campaign finance regulations,
12 term limits, professionalism in legislatures, voter
13 ID laws, early voting, same-day registration,
14 alcohol regulations, health insurance. What other
15 things would be included in here?

16 Regulations on lobbying, regulations
17 on independent expenditures, ballot measures. Work
18 that otherwise informs or is related to economic
19 regulations, health policy, political reforms.

20 There's some work which is probably
21 better characterized as methodological contributions
22 that might be useful in policy evaluation. Reforms
23 to the budget process, effects of ethics laws,
24 sentencing reforms, work related to the recruitment
25 and training of poll workers, work relating to

1 regulations on ownership of broadcast television.

2 These are some other examples from
3 the research studies listed on my CV in the course
4 of teaching or doing other kinds of work in
5 progress, referee reports, and the like. There are
6 other areas that I've had occasion to speak to.

7 Q. Which of the articles or publications that
8 are in your CV relate to early voting?

9 A. I believe the article -- it's numbered 26,
10 under journal articles.

11 Q. "Estimating the Impact of State Policies
12 and Institutions with Mixed-Level Data"?

13 A. I believe there is a variable. I'm going
14 off of the top of my head on the recollection of
15 that. If I have access to look at that article, I
16 could be more sure.

17 I'm not sure if 23 included a control
18 variable for early voting or not. There may have
19 been other studies where a variable was included.
20 I'm looking through here.

21 Under contributions to edited
22 volumes, I'm not quite -- I can't recall, off the
23 top of my head, exactly what was included in terms
24 of other variables in number 5 and number 3. But
25 those would be -- if I were trying to refresh my

1 memory, I would take a look at those.

2 Q. Is it fair to say that in looking at
3 numbers 3, number 5, number 23, and number 26, that
4 the primary focus of those articles was not early
5 voting but, rather, some other topic and early
6 voting may have been a variable?

7 A. I wasn't finished answering the first
8 question. Do you want me to finish answering?

9 Q. Well, I want you to answer that first and
10 then I'll let you continue.

11 A. Which is that?

12 Q. The question I just asked, which is, is it
13 fair to say that numbers 3, number 5, number 23, and
14 number 26, the prime focus of the study is not on
15 early voting but, rather, early voting may have been
16 a variable that you considered in this study?

17 A. It was not a focus of those studies.

18 Q. Now you can -- are there any other studies
19 dealing with early voting?

20 A. There's -- you say, "any studies." It
21 captures more than just what's on a CV. So I'm
22 referring to the CV here.

23 The review of poll worker best
24 practices with Barry Burden would have spoken to
25 early voting as well.

1 Q. Any of the -- you mentioned that there
2 were perhaps an article or more or study dealing
3 with voter ID. Which -- to which were you
4 referring?

5 A. In terms of on the CV -- I don't think 26
6 had that in there.

7 From the CV, I would point to, in the
8 technical and policy reports, number 8.

9 Q. Which is, "The Effects of Photo
10 Identification on Voter Turnout in Indiana"?

11 A. Yes, that certainly had to do with voter
12 ID.

13 Q. Any others?

14 A. Not on the CV.

15 Q. When you say, "not on the CV," is there
16 something that you're thinking of that is not on the
17 CV?

18 A. Well, your question was broad. I don't
19 remember the exact words of it. Do you?

20 Q. Yeah. Because it was -- actually dealt
21 with your CV. But I'm asking you whether, outside
22 of your CV, have you -- other than in litigation,
23 studied photo -- voter ID?

24 A. Studied is a broad term. I've talked
25 about it in classes. I have made a couple of

1 conference presentations.

2 Q. Which conference presentations?

3 A. I don't list conference presentations on
4 my CV, so that's going to be harder to remember
5 exactly. But in the spirit of your question, let's
6 see, a few years -- I can't remember whether it was
7 the Midwest Political Science Association or the
8 American Political Science Association, so one or
9 the other or both, I've made two presentations that
10 I can recall that had to do with voter ID.

11 There may have been a presentation at
12 the Public Choice Society conference. I don't
13 recall exactly.

14 Q. What is a Public Choice Society?

15 A. The Public Choice Society is an academic
16 professional organization.

17 Q. And what were the topics, if you recall,
18 of any of these presentations? I understand you're
19 saying they dealt with voter ID, but what aspect of
20 voter ID?

21 A. One had to do with public approval of
22 various voting reforms, early voting, vote by mail,
23 same-day registration, and voter ID.

24 Q. Do you remember any others?

25 A. And one had to do with effects of voter ID

1 on voter turnout. And I think, again, in the spirit
2 of being responsive to your question, I've also
3 given some seminar presentations.

4 Q. And where were the seminar presentations
5 given?

6 A. Let's see. I gave a seminar presentation
7 at Tulane University, and at least one
8 work-in-progress presentation in the Department of
9 Economics at Missouri. And at least one
10 presentation in the Truman School of Public Affairs
11 at Missouri.

12 Q. And each of these was on voter ID
13 specifically?

14 A. Yes.

15 Q. And on what topics of -- what area of
16 voter ID?

17 A. The seminars at Missouri focused on
18 effects on voter turnout. The seminar at Tulane, I
19 believe, also focused on that.

20 And I believe there was also a
21 panel -- I'm not quite sure how to describe it, but
22 a panel on -- or certainly relating to voter ID, at
23 the Cato Institute, where I was on the panel, part
24 of a collection of speakers.

25 Q. What is a Cato Institute?

1 A. The Cato Institute is a think tank in -- I
2 believe they're located in Washington, DC, proper.

3 Q. You are associated -- or had been
4 associated with them in the past. Is that correct?

5 A. I have a title there. I believe it's
6 fellow or senior fellow.

7 Q. Has the Cato Institute itself taken a
8 position on voter ID; do you know?

9 A. I don't know if they have. I'm not sure
10 think tanks take lobbying positions, if that's what
11 you mean.

12 Q. Are you paid by the Cato Institute?

13 A. I'm not paid by the Cato Institute at this
14 time.

15 Q. Have you ever been paid by the Cato
16 Institute?

17 A. There was a time when I received payment
18 from the Cato Institute.

19 Q. And how much do you receive?

20 A. Let's see, I think we're going back to
21 2006. And round numbers, it was in the nature of a
22 summer -- summer support, maybe \$6,000, \$8,000,
23 some -- it could have been more in that
24 neighborhood.

25 Q. And getting back to the conferences that

1 you talked about, were the presentations that you
2 gave based upon your own studies, as opposed to a
3 literature review? And I'll focus first on -- I'll
4 focus first on the -- the effects of voter ID on
5 voter turnout.

6 A. I'm sorry, I'm kind of distracted by the
7 movement here. I will try to pay attention if you
8 would...

9 MR. ROSENBERG: Can you read the
10 question back, please.

11 THE REPORTER: Question: "And getting
12 back to conferences that you talked about, were the
13 presentations that you gave based upon your own
14 studies, as opposed to a literature review?"

15 A. In general, any presentation would include
16 both some literature review as a way to sort of
17 place a context for the analysis, and some -- some
18 original analysis.

19 Q. (BY MR. ROSENBERG) When you say, "some
20 original analysis," can you describe the form that
21 the original analysis took?

22 A. Well, let's see --

23 Q. On voter ID.

24 A. Is there a particular occasion that you're
25 asking about?

1 Q. Well, the one you were just talking about.

2 A. At the Cato Institute?

3 Q. Yeah.

4 A. Oh, that would have been a discussion
5 on -- I'm not sure if it was specifically on a book
6 by John Fund, and I'm not sure if he had a coauthor.
7 But it would -- he was one of the main speakers and
8 it was more offering commentary on that, to the best
9 of my recollection.

10 Q. Now, your presentation to the Midwest
11 Political Science Association, that was in 2013?

12 A. I don't believe I said that.

13 Q. No. But I'm asking.

14 A. I don't recall specifically whether it was
15 Midwest or whether it was 2013. I had trouble
16 recalling.

17 To be honest, there's these two big
18 political science conferences, and I -- hard to keep
19 them straight. It's all the same crowd.

20 Q. Is 2013 a ballpark?

21 A. You know, I don't recall.

22 Q. Was the title of your presentation, "The
23 Voter ID Mess"?

24 A. That sounds familiar.

25 Q. And can you -- having refreshed your

1 recollection with that title, can you tell me what
2 the -- whether or not that study was based upon your
3 own research?

4 A. It was a presentation of some work in
5 progress --

6 Q. And when you say -- I'm sorry.

7 A. -- as well as some review of the
8 literature.

9 Q. And when you say, "work in progress,"
10 what do you mean?

11 A. I mean work that at that time was not in a
12 state to be distributed publicly.

13 Q. Has it reached a state where it's in a
14 position to be distributed publicly?

15 A. That's an area of inquiry that I have
16 looked at over time, but I have not disseminated a
17 written report.

18 Q. Did you disseminate any written materials
19 at that presentation?

20 A. I don't recall. It's possible I would
21 have had copies of an overhead presentation. It's
22 possible that I had something in the way of a short
23 write-up that would have been given to a discussant,
24 but I don't recall specifically.

25 Q. Do you recall which state -- state or

1 states you presented on?

2 A. I believe in that presentation I discussed
3 aggregate turnout, looking at all 50 states, and
4 also -- and, again, I'm going off the best of my
5 recollection here.

6 And I believe also looking at the
7 current population survey, looking at all 50 states.

8 Q. Did you -- do you recall whether you
9 studied voter ID laws -- whether you presented on
10 voter ID laws generally or specifically on photo ID
11 laws?

12 A. Again, I'm going off of a recollection of
13 a talk from some time ago. And my recollection is
14 that there would be some characterization of both ID
15 laws, in general, as well as specifically photo ID
16 laws.

17 Q. Did you have a thesis for your
18 presentation?

19 A. Again, trying to be responsive to the
20 spirit of your question, it focused on the effects
21 of voter ID laws on voter turnout.

22 Q. Well, when you used the title, "The Voter
23 ID Mess," what did you mean by that?

24 A. Professional conference presentations, you
25 submit a title many months in advance of the actual

1 presentation. So that was something I thought
2 sounded catchy and marketable and would get my
3 presentation accepted.

4 I don't recall if I used the same
5 title in the presentation or not. Again, you're
6 asking about a work-in-progress presentation from
7 some time ago, and I'm going off of the best of my
8 recollection at this moment.

9 I may have kept that in the title,
10 and then a colon. I'm not quite sure.

11 Q. After the colon, did it say something like
12 estimating the effects of state voter ID and voter
13 turnout and self-reported voting irregularities?
14 Does that sound familiar?

15 A. That sounds like what the original
16 conference proposal would have been. My
17 recollection is, by the time the rubber hit the road
18 and it was time to talk about results, I don't
19 know -- I -- definitely the focus was on voter
20 turnout.

21 Q. Now, are you -- have you submitted that
22 writing anyplace for publication in a journal?

23 A. As I mentioned, it wasn't a written report
24 and it hasn't been disseminated.

25 Q. You mentioned earlier the technical

1 report, "The Effects of Photographic Identification
2 on Voter Turnout in Indiana." Was that submitted
3 for publication to a peer-review journal?

4 A. No, it has not been.

5 Q. Have you ever published in a peer-review
6 journal, a study on voter ID?

7 A. Not that I would characterize as the main
8 focus was on voter ID, to the best of my
9 recollection.

10 Q. Turning your attention to the first page
11 of document 2 in front of you.

12 A. Milyo 2.

13 Q. Milyo 2. Actually, let's do it this way.
14 Let's look at Milyo 1, the first page. And
15 Paragraph 5 states, "The State of Texas is
16 compensating me for any subsequent testimony in this
17 case at the rate of \$400 per hour. To date, I've
18 been paid \$15,000 for my work in this case." Do you
19 see that?

20 A. I do.

21 Q. Okay. Can you tell me what the rate of
22 your compensation has been throughout this case?
23 Has it always been \$400 or has it changed at all?

24 A. The \$400 an hour would be for the
25 subsequent testimony. And I was paid on a flat fee

1 for producing expert reports.

2 The \$15,000 was accurate at the time
3 of this writing.

4 Q. So your agreement with the State was that
5 you would produce an expert report for \$15,000?

6 A. No, I did not say that.

7 Q. Well, that's what I'm asking. That was a
8 question.

9 A. The -- well, there was an original
10 agreement that had a cap for payment and some
11 open-ended -- it was a long contract, and I have to
12 be honest, that -- I didn't go into the details of
13 it too much. I went with my understanding of what
14 was to be produced.

15 The original cap, I believe, was
16 \$25,000. Since that time, the cap has been raised
17 over time. And, again, I want to be responsive to
18 the spirit of your question here.

19 15,000 is what I have actually been
20 paid. I have billed for more than that.

21 Q. How much have you billed for?

22 A. There's an outstanding invoice for 50,000.

23 Q. On top of the 15?

24 A. On top of the 15.

25 Q. And are you billing that on the basis of

1 an hourly rate?

2 A. No. That was based on a flat rate.

3 Q. And do you recall how much time you
4 spent -- do you keep track of your time?

5 A. Since I'm being paid on a flat rate, I'm
6 not keeping detailed time. I believe I had to
7 submit a declaration where I gave an estimate of the
8 time I have spent.

9 Q. And the \$400 an hour, does that come into
10 play after this first \$65,000 flat work?

11 A. It's not entirely clear to me. I -- my
12 understanding is that it does. I'm not sure there's
13 a complete meeting of the minds there.

14 Q. Do you recall -- can you estimate how many
15 hours you have devoted to this case?

16 A. In total?

17 Q. In total.

18 A. Not with great accuracy. I submitted a
19 declaration which was a best estimate at that time.
20 And I can't even recall exactly when that was -- was
21 turned in.

22 So I can talk about the marginal
23 hours since then.

24 Q. Well, do you recall approximately how many
25 hours you listed in the declaration that you

1 submitted?

2 A. You know, I don't recall it exactly,
3 because I wasn't keeping a formal record. It was
4 based on my best estimate and understanding of the
5 hours.

6 Q. Do you recall approximately?

7 A. With a big approximation, 100.

8 Q. 100 hours?

9 A. Does that work out about right? Something
10 like that, more than that.

11 Q. And do you recall approximately what scope
12 of work was included in that? And by that I mean,
13 through the first report, through the second report,
14 something else?

15 A. I'm trying to recall when that was
16 submitted. This is where we get into the gray area
17 where it wasn't clear to me if there was a meeting
18 of the minds on everything.

19 I think that was submitted along with
20 the first report, over a short -- you know, maybe
21 not exactly contemporaneous. But that's my
22 recollection of doing that declaration.

23 Q. Now, the reports, documents 1 and 2, do
24 they contain all of the opinions you intend to give
25 in this case at trial?

1 A. Well, you're asking about the future. For
2 today, the report contains my opinions. But as has
3 happened, as new information comes up -- again, I'm
4 not an expert on the legal process. If I'm asked to
5 do something more -- I don't know if I'll have
6 occasion to do new analysis to look at supplemental
7 reports in more detail, et cetera. So I would not
8 want to confine myself in the future to the report.
9 But for now, it contains my opinions.

10 Q. And sitting here today, have you
11 undertaken any analyses that do not appear in either
12 Milyo document 1 or Milyo document 2?

13 A. Well, as I've mentioned, I've glanced at
14 or looked at some of the supplemental reports. One
15 can't help but have some thoughts. But in terms of
16 any formal analyses or opinions, I can't say that I
17 have anything that I'd be comfortable discussing at
18 this time beyond the report.

19 Q. In the past you've described your area of
20 academic expertise -- and tell me if this is
21 correct -- as American political economy, including
22 the empirical analysis of the effects of political
23 regulations and institutions. Is that accurate?

24 A. I don't recall that specifically.

25 Q. Does that sound accurate to you? Does

1 that accurately describe your area of expertise as
2 you would put it forward?

3 A. Depending on the context, I could envision
4 describing that in that way.

5 Q. Well, earlier today, I think you talked
6 about your scope of expertise in this case as a
7 political economist with expertise in policy
8 evaluation. Is that correct?

9 A. That sounds familiar to what we said.

10 Q. Is that any -- do you consider that
11 different than American political economy, including
12 the empirical analysis of the effects of political
13 regulations and institutions?

14 A. Those sound fairly synonymous to me.

15 Q. Now, do you -- is the expertise that
16 you're putting forward in this case different than
17 either of those two descriptions?

18 A. Broadly construed, no.

19 Q. You consider yourself an expert in
20 statistics?

21 A. I have some expertise in statistics.

22 Q. Do you consider yourself an expert in
23 statistics?

24 A. It would depend on the context, what
25 exactly you mean.

1 Q. Are you a statistician?

2 A. I do statistical work.

3 Q. Do you consider yourself a statistician?

4 A. I don't know that there's a union of
5 statisticians. So, you know, it's a strange sort of
6 question.

7 I do statistical evaluation. I have
8 done some methodological statistical analysis.

9 Q. Have you published a peer-reviewed article
10 on statistics?

11 A. In a journal with statistics in its title
12 or generally considered in the field of statistics?

13 Q. I'm asking whether you've ever published a
14 peer-reviewed article on statistics in any journal.

15 A. Using statistical tools, absolutely.

16 Q. Are you a member of any statistician
17 professional associations?

18 A. No.

19 Q. Have you ever taught a statistics course?

20 A. I've certainly guest lectured in a course
21 on applied statistical methods through the economics
22 department.

23 But if your question is about a
24 course in a statistics department, no.

25 Q. Have you authored any scholarly works on

1 quantitative methodology in social science?

2 A. Yes.

3 Q. Which ones?

4 A. Referring to my CV. Well, in some sense,
5 almost any empirical study is going to have to do
6 with statistical methodology and the way of
7 analyzing a particular area. So almost anything
8 empirical could be classified in that way.

9 Q. Do you consider yourself an expert on
10 transportation?

11 A. I would not consider myself an expert on
12 transportation.

13 Q. Do you consider yourself an expert on
14 travel behavior?

15 A. I would not consider myself an expert on
16 travel behavior.

17 Q. Do you consider yourself an expert on
18 travel burdens?

19 A. Well, now you're getting into an area of
20 describing potential costs and benefits, which is
21 within the bailiwick of economics.

22 Q. But specifically on travel burdens.

23 A. To the extent they have to do with
24 evaluating costs and benefits, the logic of
25 arguments.

1 Q. You consider yourself an expert on travel
2 burdens, is that what you're saying?

3 A. I didn't say that.

4 Q. That's what I'm asking.

5 A. If the discussion of travel burdens
6 relates to things that I have expertise in, then I
7 would have expertise in that.

8 Q. Have you ever published a peer-reviewed
9 article on travel burdens?

10 A. I don't believe so.

11 Q. Do you consider yourself an expert on
12 surveys?

13 A. I have analyzed surveys, so I have some
14 expertise.

15 Q. Have you ever conducted a survey?

16 A. I have been a participant in the
17 Cooperative Congressional Election survey for --
18 counting this year -- seven years. That would be as
19 a team member.

20 Q. I'm sorry, just slow down for a second.
21 Can you again tell me, you're a participant in what
22 survey?

23 A. It's the CCES. And, again, sometimes I
24 may conflate whether it's Cooperative Congressional
25 or Congressional cooperative. But it's CCES.

1 Stephen Ansolabehere, I believe, is
2 still the principal investigator for that survey.

3 Q. And what is your role in the CCES?

4 A. As a team member, we submit questions to
5 be included in subsamples of team content.

6 Q. Who else is a member of the team?

7 A. For this year's survey, I am including a
8 graduate student in political science, and have
9 worked with her on some questions related to her
10 dissertation research.

11 Q. And anyone else?

12 A. For this year, no.

13 Q. And when I say the team -- you mentioned
14 Stephen Ansolabehere. Is he part of the team also?

15 A. No. The terminology of a team would be --
16 the CCES is a cooperative survey and so teams at
17 different universities buy in and contribute survey
18 questions for part of the analysis.

19 Q. Who actually designs the survey in CCES?

20 A. The overall survey?

21 Q. Yes.

22 A. In terms of who to ask? That would be --
23 you could look it up. But it -- they used to be
24 called Polimetrics. I can't remember if they were
25 bought out. And Stephen Ansolabehere as the PI, I

1 imagine, had something to do with that.

2 Q. But your participation of that is limited
3 to suggesting questions that they might ask? Is
4 that what you're saying?

5 A. It's more than suggesting. The questions
6 that we put in are asked.

7 Q. Have -- but do you have anything to do
8 with the design of the survey, other than submitting
9 questions to be asked?

10 A. No.

11 Q. Do you have -- have you -- other than your
12 participation in CCES, have you ever designed a
13 survey?

14 A. Let's see. I think in the spirit of your
15 question, not -- not in terms of a large sample
16 public opinion survey.

17 Q. Do you consider yourself an expert in
18 geography?

19 A. I'm -- if you mean the scholarly
20 discipline of geography --

21 Q. Yes.

22 A. No.

23 Q. Are you familiar with the discipline of
24 political geography?

25 A. I've heard the term.

1 Q. Do you consider yourself an expert in
2 political geography?

3 A. To the extent they discuss issues and use
4 methods that overlap with things that I have
5 familiarity with, I would have some expertise.

6 Q. But would you consider yourself an expert
7 in political geography?

8 A. As I've answered, to -- in the areas where
9 there's overlap, where I do have expertise, then I
10 would have some expertise.

11 Q. What's your understanding of what the
12 discipline of political geography is?

13 A. My understanding is that it would involve,
14 in part, looking at issues such as redistricting.

15 Q. And do you consider yourself an expert in
16 the issues of political geography that touch upon
17 redistricting?

18 A. Well, you're asking about substantive
19 focus areas and, in doing so, I think something
20 that's missing would be -- again, there's areas of
21 any kind of analysis that may involve discussion of
22 costs and benefits of the behavior of individuals,
23 of the way to empirically evaluate phenomena. Those
24 would be the broad areas that I have expertise, and
25 they can be applied across many different fields,

1 into many different areas, as my CV suggests.

2 Q. Do you consider yourself an expert in
3 residential patterns of different racial and ethnic
4 groups?

5 A. Again, I've given a repeated answer about
6 overlap and use of methods and tools. In terms of a
7 substantive focus of my own inquiry, I would say no.

8 Q. Do you consider yourself an expert on
9 poverty issues as they affect different racial and
10 ethnic groups?

11 A. That's something where I have done more
12 work specifically on that topic, but I would -- I
13 would remind you of the answer about, my expertise
14 is more in methods of analysis that are broadly
15 applicable to many fields and issue areas.

16 Q. So you would not consider yourself an
17 expert specifically on poverty issues as they affect
18 racial and ethnic groups?

19 A. It -- I've done some research looking at
20 health consequences, social determinants of health.
21 And in any analysis, looking at political outcomes,
22 those are often controls. So it depends on what you
23 mean by an expert. I would characterize my
24 expertise more in the way I have, in the broad use
25 of tools within the area of American political

1 economy and policy evaluation.

2 Q. Do you consider yourself an expert on
3 election fraud?

4 A. I would answer the same way. To the
5 extent it involves the tools of economic and
6 political analysis, I would be able to be conversant
7 with those kinds of studies.

8 Q. Have you ever done a study on election
9 fraud?

10 A. I have not published an article on
11 election fraud, specifically on that topic.

12 Q. Have you ever studied election fraud?

13 A. Broadly construed, studying, yes, I have
14 read about it.

15 Q. Other than reading about it?

16 A. I have thought about it.

17 Q. Other than thinking about it?

18 A. Well, thinking about it covers a lot of
19 ground.

20 The -- I think some of my work in
21 progress presentations probably contain some
22 discussion, but I don't have an exact recollection.

23 Q. And you've never published any scholarly
24 work on voter fraud?

25 A. As the main theme, I mean, we've pointed

1 to the voter ID study which I would guess mentions
2 something about illegal voting.

3 Q. Other than that?

4 A. Published might include an op-ed. And so
5 now I'm trying to remember any op-eds I might have
6 done.

7 There's an op-ed called "The Votes
8 Are in." That may have mentioned something about
9 illegal voting. I don't recall it, the content of
10 it.

11 Q. Have you ever done an op-ed on voter ID?

12 A. If I were to pick one out -- let's see.
13 That one -- I'm looking at my list here.

14 To the best of my recollection, and
15 looking at my CV, that -- "The Votes Are in," it
16 looks like that might be an op-ed on that topic.
17 That's what I recall.

18 Q. Do you recall what your opinion was that
19 you gave in that op-ed?

20 A. Well, that's going back to 2008, so I
21 don't have a detailed recollection.

22 Q. Would you consider that a scholarly work?

23 A. No. I generally don't consider op-eds a
24 scholarly work. I thought you were asking about any
25 publication.

1 Q. Do you consider yourself an expert on the
2 history of discrimination in Texas?

3 A. To the extent any analysis involves
4 discussion of costs and benefits as -- used as
5 statistical tools, I would have some expertise.
6 But, no, I would not say that is a substantive focus
7 of expertise for me.

8 Q. Have you published any articles on the
9 application of social science to civil rights
10 issues?

11 A. I think one might characterize a fair
12 amount of my work on campaign finance along those
13 lines. Also the voter ID study, that's what comes
14 to mind immediately.

15 Q. On campaign finance, are you
16 characterizing that as a social science analysis
17 applied to civil rights because of the First
18 Amendment implications?

19 A. Yes.

20 Q. Not because of racial or ethnic issues.
21 Is that correct?

22 A. That would be correct.

23 MR. ROSENBERG: Why don't we take
24 a -- I think we've been going for about an hour, so
25 let's take a little break.

1 (Recess.)

2 Q. (BY MR. ROSENBERG) Professor Milyo,
3 you've had some connection with the institute of
4 justice. Is that correct?

5 A. Is it the institute of justice or
6 Institute For Justice? But I -- yes.

7 Q. Something that has the words "institute"
8 and "justice" in it?

9 A. Yes.

10 Q. What is the institute of or for justice?

11 A. Best of my knowledge, I think I would
12 describe it as a -- I think you would call it a
13 public interest law firm or maybe we would call it
14 a -- no, they're not a firm.

15 It's a nonprofit that engages in some
16 public interest kinds of cases that does some think
17 tank kind of aspects.

18 Q. And what's been your relationship with The
19 Institute For Justice?

20 A. I have produced some reports for them and
21 I have also been an expert witness.

22 Q. Do you have an ongoing relationship with
23 them?

24 A. I would not characterize it that way.

25 Q. Do you have a current relationship with

1 them?

2 A. No.

3 Q. Does The Institute For Justice -- has The
4 Institute For Justice taken a position on voter ID
5 laws?

6 A. Not to my knowledge.

7 Q. Do you have any relationship with the Koch
8 Foundation, K-o-c-h?

9 A. I receive a grant to teach a seminar
10 course, from the Koch Foundation.

11 Q. Is that the only grant you've received
12 from the Koch Foundation?

13 A. I've received multiple renewed grants to
14 teach a seminar course, and that's the only current
15 grant at this time.

16 Q. Has the Koch -- what is the Koch
17 Foundation?

18 A. It's some sort of nonprofit that does
19 stuff. I mean, my knowledge, it relates to -- they
20 have an interest in undergraduate teaching programs,
21 is most of my knowledge.

22 Q. Do you know if the Koch Foundation has
23 taken a public position on photo ID laws?

24 A. I do not.

25 Q. Do you know if the Koch Foundation has a

1 relationship with The Institute For Justice?

2 A. I do not.

3 Q. By the way, do you have a personal opinion
4 as to photo ID laws of any kind?

5 A. What do you mean by personal?

6 Q. Well, do you think photo ID laws are good
7 or bad, that there are concerns, problems, no
8 problems, that kind of thing?

9 A. Apart from what's in my report?

10 Q. Apart from what's in your report.

11 A. I'd say to the extents, recently I have
12 thought about photo ID laws. It's been more in the
13 context of a researcher, looking for opportunities
14 to produce what might be some value-added research.

15 Q. So do you have a personal opinion as to
16 whether photo ID laws are good or bad, generally
17 speaking?

18 MR. KEISTER: Objection; form.

19 Q. (BY MR. ROSENBERG) You're allowed to
20 answer. As a matter of fact, you have to answer.

21 MR. KEISTER: Yes. Unless I instruct
22 you not to, you answer.

23 A. Well, the reason I'm having trouble with
24 your question in a way that maybe a layperson
25 wouldn't, is that in economics especially, we try to

1 distinguish between positive analysis and normative
2 analysis, and, you know, we try to separate those
3 barriers.

4 So of late, I can't say that I've
5 taken a stance on voter ID, other than maybe people
6 seem to make a bigger deal of it than perhaps the
7 evidence warrants.

8 Q. (BY MR. ROSENBERG) When you say people
9 seem to make a bigger deal about it than the
10 evidence warrants, what bigger deal are you
11 referring to?

12 A. What bigger deal?

13 Q. Yeah. You used the words "bigger deal."
14 So you mean the --

15 A. It could be this proceeding, it could
16 be -- there's a heated political debate, and as with
17 any heated political debate, one could -- if you're
18 asking for a lay characterization, characterize that
19 as making a big deal of something.

20 Q. And by that you mean people who are
21 claiming that the law is not a good law?

22 A. Well, when you're using the terms good and
23 bad, again, you're sort of mixing here my role as an
24 expert and a scholar doing positive analysis versus
25 some personal opinions that anybody might have.

1 Q. And that's what I'm -- I'm asking for your
2 personal opinions.

3 MR. KEISTER: I'm going to -- let me
4 object to form and object to this being outside of
5 the expert reports and the opinions for which he's
6 been designated to testify.

7 With that proviso, he can answer.

8 A. As a personal opinion, I don't have a
9 problem with voter ID laws and -- but I don't think
10 I care terribly strongly, sitting here today.

11 Q. (BY MR. ROSENBERG) Let's turn to your
12 opinions in this case, your expert opinions. And
13 let's turn to Exhibit Number 2, which we'll use. Do
14 you have that in front of you?

15 A. This is Milyo 2?

16 Q. Milyo 2.

17 A. Yes, I do.

18 Q. And in Paragraph 1, you say that you've
19 been asked by the State of Texas to review the
20 expert reports submitted on behalf of plaintiffs,
21 and to comment on the quality of the arguments made
22 regarding the recently implemented voter
23 identification law in Texas SB 14. Right?

24 A. That looks like a verbatim reading.

25 Q. Okay. You did not, yourself, undertake

1 analysis of any data, other than as was presented to
2 you by plaintiffs' experts. Is that correct?

3 A. I don't believe it says that.

4 Q. No. I'm asking you that.

5 A. In terms of what's in the report, I
6 believe I cite all of my sources in this report.

7 Q. You did not, yourself, attempt to analyze,
8 for example, the TEAM voter list. Is that correct?
9 T-E-A-M, all capitalized. Is that correct?

10 A. That is correct.

11 Q. Or the DLS database. Is that correct?

12 A. That is correct.

13 Q. Or the license-to-carry database. Is that
14 correct?

15 A. That is correct.

16 Q. Or any of the federal databases. Is that
17 correct?

18 A. That is correct.

19 Q. And you did not, yourself, come to a
20 conclusion whether from a reasonable degree of
21 scientific certainty, fewer African-Americans, on a
22 percentage basis, possess the IDs required by SB 14
23 than do whites. Is that correct?

24 A. I believe the nature of my comments and
25 opinions had to do with the quality of analysis made

1 by the other experts.

2 Q. So you, yourself, did not come to a
3 conclusion as to whether blacks as a group
4 disproportionally do not possess SB 14 compared to
5 whites as a group. Is that correct?

6 A. Well, I presented some evidence that would
7 be consistent with no statistical difference between
8 those groups.

9 Q. Did you come to a conclusion, from a
10 reasonable degree of scientific certainty, that
11 blacks as a group possess the IDs -- do not possess
12 the IDs required by SB 14 compared to whites as a
13 group?

14 A. I did not conduct an original analysis,
15 other than what is contained in the report.

16 Q. You did not -- and the same question as to
17 Latinos as compared to whites. You did not conduct
18 an analysis to allow you to come to a conclusion as
19 to a reasonable degree of scientific certainty that
20 Latinos as a group do not possess SB 14 IDs --

21 A. Well, as discussed in the report, what I
22 commented on was the reasonable degree of scientific
23 certainty, as you put it, about the other experts'
24 conclusions.

25 And so I suppose in the sense of

1 saying, they don't really have quite the sufficient
2 evidence to make the conclusions they make, you
3 could view that as making a conclusion. I'm trying
4 to interpret your using, you know, some particular
5 words here.

6 But, again, I would describe the
7 report as speaking to the quality of the arguments
8 made by the other experts. I do present some
9 evidence about statistical significance in holding
10 of IDs across these groups.

11 Q. You do not come to any conclusions,
12 yourself, as a result of your own study, as to
13 whether there's a history of racial discrimination
14 against blacks and Latinos in Texas, particularly as
15 to voting. Is that correct?

16 A. Again, the substance of the report would
17 speak more to the quality of arguments, on that
18 topic, less so than on other topics, I believe.

19 Q. Do you believe that there is a history of
20 racial discrimination against blacks and Latinos in
21 voting in Texas?

22 A. I don't have firsthand knowledge of that.

23 Q. Well, whether you have firsthand knowledge
24 or not, do you have any opinion based upon your --
25 whatever your experience in whatever your fields

1 are?

2 A. The opinions that I have in my report are
3 the ones that I'm -- that I currently have at this
4 time. If you, you know, go outside that, it's
5 difficult for me to answer.

6 Q. Meaning you don't have an opinion as to
7 whether or not there's a history of racial
8 discrimination against blacks and Latinos in Texas,
9 particularly as to voting?

10 MR. KEISTER: Object to form; asked
11 and answered. You can answer.

12 A. Again, lawyers use the word "opinion"
13 differently than other folks and so hence my -- my
14 hesitation.

15 My report contains the opinions that
16 I'm offering as of this point in time.

17 Q. (BY MR. ROSENBERG) Are you offering an
18 opinion as to whether or not there's a history of
19 racial discrimination against blacks and Latinos in
20 Texas, particularly as to voting?

21 A. I don't believe the report speaks to that.

22 Q. Do you have an opinion, outside of the
23 report, as to whether there's a history of racial
24 and ethnic discrimination against blacks and Latinos
25 in Texas, particularly as to voting?

1 MR. KEISTER: Let me object to form
2 and to the extent it calls for opinions outside of
3 the expert report, and the purposes for what this
4 witness has been designated, I object. But with
5 that said, you can answer if you can.

6 A. I don't have firsthand knowledge. I would
7 have to offer -- if you're asking for an opinion, it
8 would be as a -- as a layperson. I haven't examined
9 the evidence in the context of providing an expert
10 report on that question.

11 Q. (BY MR. ROSENBERG) And as a layperson?

12 A. My --

13 MR. KEISTER: Same objections.

14 A. My understanding in terms of my personal
15 opinion would be yes.

16 Q. (BY MR. ROSENBERG) Do you have an opinion
17 as to whether there's racialized, polarized voting
18 in Texas?

19 A. Again, a particular terminology, I don't
20 believe that is something that my expert report
21 speaks to.

22 Q. Do you understand what the term racial --
23 do you have an understanding of the term racialized
24 -- racial polarized voting?

25 A. It's a phrase that I have seen. And I may

1 not have the exact legal interpretation of that.

2 Q. What's your understanding of the term?

3 A. Again, this goes outside the bounds of my
4 report, in terms of things that I've expressed an
5 opinion on.

6 Q. Yes. And what is your understanding of
7 the term "racial polarized voting"?

8 A. Broadly speaking, it would be that whites
9 and blacks -- or we could consider different
10 races -- either have different opinions or vote for
11 different types of candidates in a way that has a
12 high correlation with race.

13 Q. And have you ever studied the issue of
14 whether there is racial polarized voting in Texas?

15 A. By "study," do you mean...

16 Q. Well, you can tell me how you would use
17 the word "study" and we can go with that definition.

18 A. Well, the other expert reports provide
19 some numerical evidence. That's certainly something
20 that I've looked at and thought about. But I don't
21 think I speak to that in the report, so I haven't
22 offered any opinions on that in my report.

23 Q. And do you have any basis upon which to
24 dispute the opinions in the other reports to which
25 you've just referred as to racial polarized voting

1 in Texas?

2 A. Well, as I've repeatedly said, my report
3 contains the opinions that I have today at this
4 time. If I'm asked to examine other aspects of the
5 expert reports or have the time and opportunity to
6 do so, and/or have the time and opportunity to do
7 so, I might.

8 But at this time, I would stick to
9 the opinions that I've offered in my report.

10 Q. Based upon your experience in whatever
11 your fields are, do you have any opinions as to
12 whether or not there is racial polarized voting in
13 Texas?

14 MR. KEISTER: Let me just object to
15 form. And to the extent it's outside the expert
16 report and the issues which he's been designated, I
17 object. With that objection, he can answer if he
18 can.

19 A. I don't recall looking firsthand at the
20 kind of data that might speak to that issue, other
21 than some of the evidence presented by the other
22 experts in terms of differences in -- well, they
23 present differences in voting rates, differences in
24 registration rates. That's not directly speaking to
25 the polarized voting, so I have not studied that

1 issue.

2 Q. So you have no opinion on that issue?

3 A. Again, you're using -- you know, we're in
4 a legal proceeding where opinion means something.
5 My expert opinions are contained in the report I've
6 provided.

7 Q. Do you have a lay opinion on that issue?

8 A. What was the issue we're talking about?

9 Q. Whether there's racial polarized voting in
10 Texas.

11 A. I have not looked at the data.

12 Q. So you don't have an opinion?

13 A. I could speculate as to an uninformed
14 opinion. I'm not sure what value that would have.

15 Q. I'm not asking you to speculate.

16 Do you have an opinion as to whether
17 there was a discriminatory purpose behind the
18 passage of SB 14?

19 A. I believe to the extent that is discussed
20 in my report, what I've pointed out is that the
21 evidence presented is not entirely consistent with
22 that sort of claim.

23 Q. And where in your report do you say that?

24 A. Let's see. This doesn't have a page
25 number, so it's -- let's see. The first instance

1 that I see would be in Paragraph 18, at the bottom.

2 Q. Paragraph 18, at the bottom, is where you
3 summarize the 17 expert reports submitted by
4 plaintiffs. And part E says, "Racially
5 discriminatory intent." Is that what you're
6 referring to?

7 A. Below that. "Given the limited time
8 available to me, I consider only the first four of
9 these arguments, A through D."

10 Q. So you go on to say, "However, my findings
11 are sufficient to severely undercut the fifth and
12 final argument, E." Is that what you're saying? Is
13 that what you say?

14 A. I believe that is a verbatim reading.

15 Q. And what do you mean, which findings are
16 sufficient to severely undercut that there was
17 racially discriminatory intent in the passage of
18 SB 14?

19 A. The summary I provided here was that SB 14
20 was passed with the intent to substantially and
21 disproportionately suppress turnout among otherwise
22 eligible black and Hispanic voters.

23 The kind of evidence that is offered
24 primarily has to do with the effects -- and I point
25 out throughout the report -- problems with the

1 quality of those arguments.

2 If we -- can't be sure what the
3 effects of SB 14 was. It's hard to know what the --
4 hard to support the idea that it was part of either
5 some scheme to achieve those kinds of ends.

6 Q. Is it your understanding that the support
7 of -- that -- strike that.

8 Is it your understanding that
9 plaintiffs' position as to the discriminatory intent
10 behind SB 14 is limited to the effects of SB 14?

11 A. Well, we're getting into an area that's
12 explicitly an area that I've said I have not
13 considered this argument.

14 Q. So the only thing you've considered are
15 the effects. Is that correct?

16 A. I -- what I've written here is, I consider
17 only the first four of these arguments. You didn't
18 let me finish a response to your other question,
19 which now I've forgotten.

20 Q. Well, I'm not sure I didn't let you finish
21 anything. But you're free to say whatever you want.

22 Do you want me to have the question
23 read back so that you can finish your answer?

24 A. Is it something I desire? No. If it was
25 a question you wanted answered completely, then we

1 probably should.

2 MR. ROSENBERG: Well, let's read back
3 two questions ago. Make it three because of this
4 colloquy.

5 THE REPORTER: "And what do you mean,
6 which findings are sufficient to severely undercut
7 that there was racially discriminatory intent in the
8 passage of SB 14?"

9 Q. (BY MR. ROSENBERG) Is that the question
10 that you did not finish your answer to?

11 A. I don't think that was.

12 MR. ROSENBERG: Read the next
13 question, please.

14 THE REPORTER: "Is it your
15 understanding that plaintiffs' position as to the
16 discriminatory intent behind SB 14 is limited to the
17 effects of SB 14?"

18 Q. (BY MR. ROSENBERG) Is that the question
19 that you've not finished your answer to?

20 A. No, I don't think that was the one I was
21 thinking of.

22 MR. ROSENBERG: Can you read the
23 question after that one.

24 THE REPORTER: "So the only thing
25 you've considered are the effects. Is that

1 correct?"

2 Q. (BY MR. ROSENBERG) Is that the question
3 that you did not --

4 A. I think it was going the other direction
5 in time.

6 Q. Well, we're not going to waste more time
7 on that. The record will speak for itself.

8 If there's anything right now that
9 you want to add, go ahead.

10 A. There may be at some point in time. This
11 has been kind of a confusing interaction here, to be
12 honest.

13 Q. I agree.

14 Let's go to Paragraph 54 of the
15 report.

16 A. Are we still in Milyo 2?

17 Q. Yeah. And Paragraph 54 begins your
18 discussion concerning the Barreto and Sanchez
19 survey. Is that correct?

20 A. Their survey may have been mentioned
21 earlier in the report. I don't recall exactly.

22 Q. But this is the substance -- Paragraphs 54
23 through 82 is the substance of your criticism of the
24 Barreto and Sanchez report? And there's another
25 section later on I'll get to. But that's the first

1 substantive --

2 A. This would -- well, I don't know if it's
3 the first, but it is a substantive section.

4 Q. Well, is there a section before this in
5 your report --

6 A. I don't recall exactly if I had cited them
7 earlier. I'm...

8 Q. In this paragraph, I'm looking at the last
9 sentence where you say, "However, this estimate
10 (referring to the 1.2 million eligible voter
11 estimate) is likely biased upward since the methods
12 employed by Barreto and Sanchez are likely to
13 overstate the number of otherwise eligible voters
14 who lack requisite ID for several reasons."

15 Do you see that?

16 A. Yes.

17 Q. And can you quantify how likely that bias
18 is? Do you have a quantification of that?

19 A. Other than greater than zero?

20 Q. Right.

21 A. I do not.

22 Q. Okay. And when you say "likely to
23 overstate the number," do you have a quantification
24 of that?

25 A. I do not produce an exact estimate in

1 terms of a correction of their work.

2 Q. Paragraph 55, you refer to respondents who
3 do not report their year of birth and respondents
4 who do not report how long they have resided in
5 Texas, and who report that they were born in another
6 country but do not report when they became citizens.
7 Do you see that?

8 A. I do.

9 Q. Is it your opinion that because the
10 respondent did not report his or her year of birth,
11 the results should not be considered in the survey?

12 A. The context for discussing this has to do
13 with the quality of the data screening and
14 validation. And what I point out in numerous places
15 in the report would be instances of respondent
16 answers that are either difficult to interpret or
17 are inconsistent with other answers.

18 And so I'm raising the question here,
19 talking about how a more thorough check might have
20 been possible.

21 Q. But is it your opinion that because the
22 respondent did not report his or her birth -- year
23 of birth, that the results as to that respondent
24 should be omitted from the survey consideration?

25 A. The concern that I'm raising with

1 respondents that give inconsistent or incomplete
2 responses has to do with the sensitivity of the
3 analysis.

4 Q. So are you saying they should or should
5 not be considered in the analysis of the survey?

6 A. Well, I think the way you're asking the
7 question is one of those normative kinds of
8 questions. I think what we like to do is to see if
9 different treatments of different responses give us
10 different results; and if they do, then we have some
11 concerns and doubts that we should raise.

12 In general, with any kind of
13 empirical study, one expects the researcher to be
14 doing that kind of a sensitivity analysis.

15 Q. Did you do that kind of sensitivity
16 analysis specifically in connection with the 210
17 respondents you describe here or the 87 respondents
18 you describe here or the 66 respondents you describe
19 here?

20 A. Well, we can refer later in the report to
21 my description of some illustrative sensitivity
22 analysis. And that would be the description of
23 Replications 1, 2, 3, and 4, beginning at
24 Paragraph 73.

25 Q. Right. And in Replications 1, 2, 3, and

1 4, did you omit from those replications any of the
2 respondents whom you describe in Paragraph 55?

3 A. Well, let's see what we say here.

4 Replication 1 has to do with ambiguous responses to
5 unexpired ID or suspended driver's license.

6 Replication 2 makes an adjustment for
7 disability exemption and over age 65.

8 Replication 3 is similar to 2, except
9 I drop responses that might render their eligibility
10 to vote ambiguous or who refuse to indicate their
11 race and ethnicity. This includes any respondents
12 that refuse to report their age, disability status,
13 state of residence, year of citizenship. I also
14 omit those respondents that report both not
15 possessing requisite ID and report voting after
16 implementation.

17 So this Paragraph 65 would include at
18 least some -- I'd have to look back to -- is it 55?

19 Q. 55, that's correct.

20 A. So here we have some who are giving
21 ambiguous information about their age.

22 Q. Well --

23 A. And --

24 Q. Let me stop you there for a second. When
25 you say, "ambiguous information about their age," if

1 the respondent gave their age, but did not report
2 his or her year of birth, did you or did you not
3 omit that respondent in Replication Number 3?

4 A. Repeat the question.

5 Q. Sure. If the respondent, in response to
6 one of the questions, gave age, or indicated
7 expressly that they were above the age of 18, 18 or
8 older, but did not, in response to another question,
9 give the year of birth, did you include or not
10 include that respondent in Replication Number 3?

11 A. So I believe Replication 3 would drop
12 people who refused to answer their age.

13 Q. That's different than -- I'll have to
14 repeat the question again.

15 If the respondent expressly stated
16 that he or she was 18 years or older, but did not
17 report his or her year of birth, did you or did you
18 not include the respondent in Replication Number 3?

19 A. I believe the initial screening question
20 asks more than just age 18 and older.

21 But the point here was that there was
22 an inconsistency in response --

23 Q. That's my question.

24 A. -- or a potential inconsistency.

25 Q. So is it your testimony that you did not

1 include all of the 210 respondents whom you say do
2 not report the year of birth in Replication
3 Number 3?

4 A. That would be the description of
5 Replication Number 3.

6 Q. And how about the 87 respondents whom you
7 described in Paragraph 55 as not reporting how long
8 they have resided in Texas. Did you or did you not
9 include those in Replication Number 3?

10 A. So Replication Number 3 omits those
11 respondents that refuse to report age, state of
12 residence, in terms of their length of residency,
13 that's correct.

14 Q. Well, there's a difference between state
15 of residence and length of residency, is there not?

16 A. You are correct in that. And this would
17 be -- this would be an area where I could more
18 accurately describe. You are correct.

19 So for 75, we're talking about people
20 who did not answer how long they have been residents
21 of the state of Texas.

22 Q. So even if someone indicated that they
23 were a resident of Texas, you would omit them from
24 Replication Number 3 because they did not state how
25 long they were a resident of Texas. Is that

1 correct?

2 A. That would be in Replication Number 3,
3 that's correct.

4 Q. So that would mean that all of those 87
5 were omitted from Replication Number 3. Is that
6 correct?

7 A. Some of those may have already been
8 omitted for a different reason. It would be --
9 those that did not give full responses to those
10 questions.

11 Q. And then how about the 66 respondents
12 described in Paragraph 55 who reported that they
13 were born in another country, but do not report when
14 they became citizens, were they included or omitted
15 from Replication Number 3?

16 A. As stated here in Paragraph 75, they would
17 be omitted from Replication Number 3.

18 Q. And that's because they had not given
19 their year of citizenship?

20 A. That's correct.

21 Q. Even though they otherwise stated that
22 they were citizens?

23 A. In the initial screening question, I
24 believe -- we don't have the survey instrument in
25 front of us --

1 Q. Well, we do, actually.

2 A. -- there, so...

3 Q. We'll be showing you the instrument in a
4 bit, if need be. But I just wanted to make sure,
5 from your standpoint, that -- whether or not you
6 included or excluded the 66 respondents described in
7 Paragraph 55 who reported that they were born in
8 another country, but do not report when they became
9 citizens.

10 And as I understand your answer,
11 you're saying you excluded them. Right?

12 A. These would be respondents that gave
13 responses that rendered our confidence and their
14 eligibility to vote ambiguous, that's correct.

15 Q. Now, if you compare document -- Milyo
16 Document Number 2 with Milyo Document Number 1,
17 Paragraph 55 in each -- do you agree that that's one
18 of the paragraphs that you made changes to?

19 A. It appears to be so, yes.

20 Q. And I see three changes. And I was going
21 to suggest it might even be helpful if you look at
22 the redline document, Number 3, and see if that
23 accurately shows the changes. So if you look in
24 front of you, Milyo Number 3, Paragraph 55.

25 And comparing those, is -- are the

1 changes that are redlined in Milyo Number 3 the
2 changes that you made between Milyo Number 1 and
3 Milyo Number 2?

4 MR. KEISTER: And just take your time
5 and make sure that you're comfortable with it.

6 Q. (BY MR. ROSENBERG) Sure. And if you're
7 not, you can blame Mr. Whitley.

8 A. Let's see, I see an underlined, a final
9 evaluation --

10 MR. KEISTER: You don't need to speak
11 on the record. Why don't you look at them, make
12 your determinations, and that will make it go
13 quicker. Anything you speak on the record, she has
14 to take down, even if it's out loud to yourself.

15 THE WITNESS: I apologize. It will
16 be helpful to have them in order.

17 A. That looks to be like a consistent
18 description of the changes from Milyo 1 to Milyo 2.

19 Q. (BY MR. ROSENBERG) And the -- one of the
20 changes was the deletion of the sentence, "Further,
21 Barreto and Sanchez do not attempt to screen out
22 respondents who may be registered to vote in other
23 states. Nevertheless, Barreto and Sanchez assume
24 that all of their respondents are indeed eligible
25 voters in Texas." Do you see that?

1 A. I see that.

2 Q. And those two sentences were deleted as
3 between Milyo 1 and Milyo 2. Is that correct?

4 A. That is correct.

5 Q. Are you withdrawing your opinion now on
6 the sentences that were in Milyo 1, but are not in
7 Milyo 2?

8 A. I may want to revisit because this is
9 asking specifically about screening for those who
10 are registered.

11 My recollection for this change was
12 that there was a final screening question. I don't
13 have the survey instrument in front of me. We could
14 look at what it asks specifically.

15 Q. But that's your memory as to why you
16 deleted those sentences?

17 A. My memory was that I had not sufficiently
18 paid attention to the last screening question, and I
19 thought it merited a change in the text to try to
20 make it more accurate and clear.

21 Q. Paragraph 56, you state that, "Respondents
22 are also asked about whether official voter records
23 at the Secretary of State's office indicate that you
24 are currently registered to vote here in Texas." Do
25 you see that?

1 A. Paragraph 56, I do.

2 Q. And then you go on to say, "Strictly
3 speaking, respondents can't really know the answer
4 to this question." Do you see that?

5 A. I see that.

6 Q. And what do you mean by that?

7 A. Well, they're being asked about official
8 records at the Secretary of State's office, which I
9 assume they're not sitting in the Secretary of
10 State's office. So...

11 Q. Do you think that the question fairly asks
12 a voter as to whether or not they are registered to
13 vote?

14 A. Fairly? What do you mean by "fairly"?

15 Q. Well, is that how you would understand the
16 question?

17 A. I wouldn't make a point of characterizing
18 it as fair or not.

19 Q. Did you understand the question that way,
20 when you read it?

21 A. What struck me was odd was the wording
22 about consistency with official voter records.

23 Q. Was that the entire question that you
24 quoted there?

25 A. It doesn't look to be, because it doesn't

1 start with a capital letter.

2 MR. ROSENBERG: Let me just take a
3 one-minute break.

4 (Off the record.)

5 Q. (BY MR. ROSENBERG) And are you saying
6 that if a respondent answered the question "No," it
7 could have been because the respondent, strictly
8 speaking, wouldn't know if the Secretary of State
9 actually had records registering him or her?

10 A. Could we look at the question?

11 Q. Yeah, but I just -- we will. And if you
12 can't answer the question because you don't have the
13 survey in front of you, I'm happy to come back to
14 that.

15 A. I think it would be better, if you don't
16 mind.

17 Q. Okay. Let's come back to that.

18 Let's go to Paragraph 57. You say,
19 "In general, survey responses are subject to
20 'motivated reasoning' by respondents; that is,
21 respondents may systematically misreport on surveys
22 in a manner that fits their preconceptions or
23 preferences (ideological and partisan beliefs are
24 particularly important drivers of motivated
25 reasoning in surveys)." And then you cite to

1 footnote 41. Is that correct?

2 A. That looks like a verbatim reading, yes.

3 Q. Do any of the sources you cite in footnote
4 41 stand for the proposition that respondents
5 systematically misreport on surveys, asking them for
6 factual information about themselves in a manner
7 that fits their ideological or partisan beliefs?

8 A. I think it would be helpful to pull out
9 those studies and take a look at them.

10 Q. Sure.

11 MR. ROSENBERG: Let's have this one
12 marked.

13 (Exhibit Number 4 marked.)

14 Q. (BY MR. ROSENBERG) I'm showing you what's
15 been marked as, I guess, Exhibit 3 -- 4. That's
16 right. I forgot we already had a 3.

17 Is that one of the studies that you
18 cite in footnote 41?

19 A. It looks to be, yes.

20 Q. And that's the article by Taber?

21 A. Correct, Taber and Lodge.

22 Q. And can you tell me where in that study
23 that it states the proposition that respondents
24 systematically misreport on surveys asking them for
25 factual information about themselves in a manner

1 that fits their ideological or partisan beliefs?

2 A. I don't believe I made that specific
3 claim.

4 Q. Well, you said that respondents may
5 systematically misreport on surveys in a manner that
6 fits their preconceptions or preferences. And these
7 surveys ask for factual information about the
8 respondents, is that correct, the surveys that
9 are -- that Barreto and Sanchez did?

10 A. Can I look through the survey?

11 MR. ROSENBERG: All right. We're
12 going to take a break now and get the surveys.

13 (Lunch recess.)

14 Q. (BY MR. ROSENBERG) Professor Milyo, a
15 couple of questions that I meant to ask a little
16 earlier. Did you do all the work on -- that led to
17 the preparation of your report yourself, or did
18 anyone help you?

19 A. I did all the work. I occasionally
20 discuss issues with colleagues. There's one that I
21 used as a sounding board along the way --

22 Q. And who is that?

23 A. -- but I would say that I did all the
24 work.

25 Q. I'm sorry.

1 A. Professor Tim Groseclose was somebody that
2 I sort of bounced off a couple of ideas.

3 Q. Which ideas did you bounce off Professor
4 grossclose?

5 A. I think one thing in particular was my
6 summary of the plaintiffs' argument.

7 Q. Anything else?

8 A. There's a section of the report -- I'd
9 better look at this here -- where I discussed
10 hypothetical examples 1 and 2 and --

11 Q. What page is that?

12 A. Paragraphs 143 through about 146, 145.
13 And, you know, those paragraphs are a little wordy
14 and complicated, and I recall reading that aloud to
15 try to make sure it sounded clear.

16 Q. And did Professor grossclose make any
17 recommendations to you in regard to your report?

18 A. No. I don't -- I don't recall anything
19 specific.

20 Q. And in terms of any number crunching that
21 you did in connection with your report, you did that
22 all yourself?

23 A. Correct.

24 Q. And turning back to the Barreto/Sanchez
25 report, you have no criticisms that Professors

1 Barreto and Sanchez are qualified to have conducted
2 the survey they did. Right?

3 A. I didn't speak to that issue.

4 Q. And you have no criticisms, then?

5 A. I raise a number of concerns about what
6 they did. But my opinions are contained in the
7 report and I didn't --

8 Q. Do you criticize the qualifications to
9 have undertaken this survey?

10 A. I do not include that kind of broad
11 criticism in my report.

12 Q. So the answer is, no, you do not criticize
13 their qualifications to conduct this survey?

14 A. Subject to all the caveats we've mentioned
15 before, that my opinions are contained in the report
16 as of today.

17 Q. Do you have any criticisms of professor --
18 or, rather, of Dr. Barreto's qualifications to
19 conduct this survey? His qualifications.

20 A. Not that I haven't expressed in the
21 opinions in my report.

22 Q. In your report do you express any opinion
23 as to Dr. Barreto's qualifications to conduct this
24 survey?

25 A. I think I would characterize the concerns

1 that are raised more about actions that were taken,
2 given their qualifications.

3 Q. You have no criticisms in your report that
4 the surveyors identified -- strike that.

5 In your report you do not criticize
6 whether the surveys identified an appropriate
7 population for surveying. Isn't that correct?

8 A. What exactly do you mean by that?

9 Q. That the universe that they were choosing
10 for their survey was not the appropriate universe.

11 A. I did not include any criticisms to that
12 effect.

13 Q. You don't have any such criticisms. Isn't
14 that correct?

15 A. At this time, my opinions are contained in
16 the report.

17 Q. And they do not include such a criticism?

18 A. I did not include such criticisms in my
19 report.

20 Q. Do you have any such criticisms?

21 A. The opinions that I have are in the
22 report.

23 Q. Do you have any such criticisms, whether
24 or not they're in the report?

25 A. At this time I haven't criticized that,

1 no. And I haven't given sufficient thought to give
2 you a response definitively.

3 Q. Or to have a criticism to that effect?

4 A. If I haven't thought about it
5 sufficiently, how can I answer you?

6 Q. Well, you can answer me simply by saying
7 whether or not you have a criticism that they
8 identified an inappropriate population.

9 A. And I think I've said multiple times, I
10 don't make that criticism in the report.

11 Q. Or outside the report.

12 A. Outside the report, I -- I do want to
13 leave open the possibility that if new information
14 is known to me, that I might do additional study and
15 develop some additional opinions. But at this time,
16 my opinions are in the report.

17 Q. Based on the information that you have, do
18 you have any criticism, whether or not it's in the
19 report, that Drs. Barreto and Sanchez did not
20 identify an appropriate population for purposes of
21 this survey? Yes or no? Please answer the
22 question.

23 MR. KEISTER: As you sit here today.

24 A. As I've said, it's not something that I
25 have given much thought to. It was not a focus of

1 my review of their report.

2 Q. (BY MR. ROSENBERG) So you have no such
3 criticism. Why can't you just answer that question?

4 A. I think I have about eight times.

5 Q. Well, then yes or no. Do you have any
6 such criticism whether or not it appears in the
7 report?

8 A. Do I have to answer yes or no?

9 Q. Yes, you do.

10 A. I will point out that Barreto and Sanchez
11 suggest they have the ability to tell whether people
12 answer yes or no even when they don't. I will
13 answer you -- if you'd repeat the question, I'll
14 give you a yes or no answer.

15 Q. Do you have any criticism whether or not
16 it's inside or outside the report that Drs. Barreto
17 and Sanchez did not identify an appropriate
18 population for purposes of this survey?

19 A. No, not at this time.

20 Q. Thank you.

21 Do you have any criticism, whether or
22 not it's inside or outside the report, that the
23 sample population approximates the relevant
24 characteristics of the target population?

25 A. That's not something I address in my

1 report.

2 Q. So, therefore, you have no such criticism
3 at this time. Is that correct?

4 A. At this time, I don't have such a
5 criticism.

6 Q. Do you have any criticism, whether it's
7 inside the report or outside the report, as to the
8 method of oversampling that Dr. Barreto and
9 Dr. Sanchez did in connection with this survey?

10 A. Again, it's not something mentioned in the
11 report. At this time, I don't have an opinion on
12 that.

13 Q. Do you have any criticism, whether it's
14 inside or outside the report, as to how Drs. Barreto
15 and Sanchez weighted the responses to the survey?

16 A. To the extent I understand their weighting
17 process, that's not something I have addressed in
18 the report. So at this time, I don't have a
19 concern.

20 Q. Do you have any criticism at this time,
21 whether it's inside or outside the report, as to the
22 response rate that Drs. Barreto and Dr. Sanchez
23 obtained from their survey?

24 A. I believe I did mention something that
25 they're -- they could have been more forthcoming

1 about -- I'm going off my recollection here, so
2 maybe I should refer to the report specifically.

3 Q. Sure.

4 A. So other than -- and I believe your
5 question was about responses?

6 Q. The response rate.

7 A. Response rate. And I think in the spirit
8 of your question, you're referring to the number of
9 people that agreed to do the survey versus don't, at
10 the beginning, when they're first contacted, rather
11 than response rates to particular questions within
12 the survey?

13 Q. That's correct.

14 A. Okay. You know, one issue I thought of,
15 but I don't think it's actually in the report, at
16 least I'm not seeing it. And this is where memory
17 and trying to read under pressure don't serve one
18 well in this context.

19 So I'll say, to the best of my
20 recollection and under the circumstances, I don't
21 recall having a criticism in the report to that
22 effect.

23 Q. Or outside the report, as far as you can
24 tell today, sitting here right now?

25 A. The one thing I recall thinking about,

1 which is what I was looking for, was -- I recall not
2 being completely sure if they described the number
3 of people who start, but don't complete the survey,
4 and what they did with those people. I don't --
5 honestly don't recall how I resolved that concern or
6 whether it was a long-standing concern, or even if
7 it's in the current report. I haven't noticed it.
8 But that's the -- again, trying to be responsive to
9 your question, that was one concern that was related
10 that I recall --

11 Q. But you don't recall how that concern was
12 resolved in your own mind. Is that fair?

13 A. I'm not seeing it in the report and so
14 I -- I think it was -- you know, there were time
15 constraints, there was a lot going on. I don't
16 think that was something that I put into the -- into
17 the report as one of my opinions at that time.

18 (Exhibit Numbers 7 marked.)

19 Q. (BY MR. ROSENBERG) Okay. I'd like to
20 show you what's been marked as Exhibit Number 7.
21 We're skipping ahead just to save -- because we've
22 got them marked in that order. Can you identify
23 that for the record?

24 A. This appears to be a copy of the Texas
25 Survey Instrument -- I believe that was the title of

1 the file -- used by Barreto and Sanchez.

2 Q. And you're free to look through it. But
3 is this the Texas Survey Instrument that you were
4 referring to when you asked if you could see a copy
5 of, at today's deposition?

6 A. Yes.

7 Q. And just to go back and kind of clean up
8 any ambiguity, we were asking you a series of
9 questions about whether or not you omitted from your
10 Replication Number 3, those respondents whose
11 answers were described in Paragraph Number 55. And
12 to the extent that you need to look through the
13 instrument that has now been marked as Exhibit
14 Number 7, Milyo Number 7, could you tell me whether
15 looking at that instrument changes your testimony in
16 any way?

17 A. I don't recall what my testimony was
18 exactly.

19 Q. Well, I'll tell you. Your testimony was
20 that the respondents whose answers you described in
21 Paragraph Number 55, the 210 respondents who did not
22 give information as to their year of birth, the
23 respondents who did not give information as to --
24 the 87 respondents who did not report how long they
25 had resided in Texas, and the 66 respondents who

1 reported they were born in another country, but did
2 not report when they became citizens, that all of
3 those respondents -- and I understand there may have
4 been some overlap among those three groups -- but
5 they were omitted from Replication Number 3.

6 A. Yes, that's my recollection.

7 Q. Okay. And looking at the instrument, that
8 still is your testimony, to the extent that you
9 wanted to look at the survey instrument?

10 A. I don't recall what spurred the request to
11 look at the survey instrument.

12 Q. Okay. That's fine.

13 Now, going back to the point we were
14 at before we broke, is it your testimony that survey
15 respondents in this case may have systematically
16 misreported in a manner that fit their
17 preconceptions or preferences as to the questions
18 asked in this survey?

19 A. It sounded like you were reading something
20 verbatim. Can you point me to that --

21 Q. Sure. Looking at Paragraph 57.

22 A. And the statement here is that in general,
23 survey responses are subject to motivated reasoning.
24 So it is a general concern with any kind of survey
25 that would touch on some ideological or partisan hot

1 button items.

2 Q. And do you have any -- do you apply that
3 general principle to questions that are asked for
4 factual information about the individual, such as,
5 in this case, whether or not they possess certain
6 forms of identification?

7 A. Well, since I say it's a general concern,
8 it would be a general concern for anything that
9 someone has particular ideological or partisan
10 belief where their factual response might service
11 that belief.

12 Q. And what is your support for that general
13 principle?

14 A. There is a literature on motivated
15 reasoning, and I'm trying to recall if -- there's a
16 study here.

17 So part of it is the identification
18 of this general phenomena of motivated reasoning.

19 Q. And those are set forth -- strike that.

20 And is it your position you find that
21 support in the footnote to the sentence in your
22 report, footnote number 41?

23 A. This says, "for example," and then cites
24 one, two, and three articles that have to do with
25 the scholarship on motivated reasoning.

1 Q. Do any of those three articles deal with
2 motivated reasoning as affecting responses as to
3 factual information as opposed to political beliefs?

4 A. We could look at them in more detail. I
5 don't recall --

6 Q. Sure. Let's look at -- we already gave
7 you one of them, I think, marked as Number -- what
8 is that -- the Taber article is marked as Number 4.

9 A. Number 4. Now, I'm guessing you don't
10 want me to read this.

11 Q. Well, you can certainly take a look at it.
12 If you have to take a longer look, we can take a
13 break and you can read it as long as you want.

14 A. So looking at the abstract, this one
15 focused on opinions about policy.

16 Q. Right. Not on factual responses. Isn't
17 that correct?

18 A. Well, if someone is saying, I support
19 affirmative action, that sounds factual.

20 Q. Doesn't it sound as if that person is
21 giving an opinion?

22 A. An opinion? I can't have a fact about
23 a -- this is my opinion?

24 Q. Wasn't the focus in the Taber article on
25 confronting arguments designed to either bolster

1 opinions or challenge prior beliefs and attitudes?

2 A. That sounds consistent with the focus of
3 their article.

4 Q. And the second article was the Bolsen
5 article, is that correct, that you cited?

6 A. Bolsen, Druckman, and Cook.

7 (Exhibit Number 5 marked.)

8 Q. (BY MR. ROSENBERG) And I'm showing you
9 what's been marked as Number 5. Is that the
10 article?

11 A. Yes.

12 Q. And the gist of that article was, when did
13 partisan identification slant the evaluation of
14 political beliefs. Isn't that correct?

15 A. Supporter opposition to policies.

16 Q. Right. It had nothing to do with survey
17 responses as to facts. Isn't that correct?

18 A. Well, again, people can -- it's a fact
19 whether or not they support a particular policy.

20 Q. But wasn't the -- weren't -- wasn't that
21 article talking about whether or not partisan
22 identification would change people's opinions and
23 beliefs, not change facts?

24 A. I'm not quite so sure whether it's
25 changing beliefs or changing the reporting of

1 beliefs.

2 Q. Wasn't it on forming attitudes?

3 A. Again, as they're measured.

4 (Exhibit Number 6 marked.)

5 Q. (BY MR. ROSENBERG) And the third article
6 was the Beaulieu article, which has been marked as
7 Number 6.

8 A. I'm not sure how to pronounce her name.

9 Q. Well, I'm going with my high school
10 French.

11 And, again, the gist of that article
12 had to do with how one's affiliation with a
13 political party affected perceptions as to, in that
14 case, election fraud. Right?

15 A. About -- the facts about election fraud?

16 Q. About one's belief as to -- one's
17 perception of fraud.

18 A. Perception of fraud in what sense, sir,
19 are you meaning?

20 Q. Well, wasn't the conclusion of that paper
21 that the most substantial effect on a respondent's
22 perception of fraud depended on whether the
23 candidate's perceived benefit as shared ^ ck the
24 respondent's party's identification?

25 MR. KEISTER: And let me just

1 instruct the witness to -- if you're going to answer
2 specific questions, make sure you're taking time to
3 be comfortable with it, to the extent you need to.

4 A. I'm just reviewing the abstract to refresh
5 my memory.

6 Q. (BY MR. ROSENBERG) Sure.

7 A. So here they're talking about a motivated
8 reasoning based more on a desire for their preferred
9 candidate to win.

10 Q. Right. But not as to whether or not they
11 are answering a fact about themselves honestly or
12 dishonestly?

13 A. Other than that fact might be an opinion
14 that they have.

15 Q. But, again, it's opinions they are talking
16 about, correct, that are being affected by the
17 preconditioning of partisan affiliation?

18 A. Well, you're kind of emphasizing the
19 semantics here. I'd be more comfortable if I had
20 time to look at it in more depth.

21 Q. Well, you certainly had time before you
22 did your report, didn't you?

23 A. I was looking for examples of studies that
24 are part of this literature.

25 Q. And these were the examples you chose to

1 put in your report in --

2 A. That's correct.

3 Q. -- support of the proposition. Is that
4 correct?

5 A. In support of the general proposition that
6 there exists motivated reasoning.

7 Q. Not that there exists motivated reasoning,
8 but that respondents may systematically misreport on
9 surveys in a manner that fits their preconceptions
10 of preferences in the context of this survey. Isn't
11 that correct?

12 A. In general, survey responses are subject
13 to motivated reasoning. So that general phenomena
14 might apply to this survey.

15 Q. Well, in fact, you went on to say, In the
16 present context, this implies that people who oppose
17 voter ID laws very strongly may be motivated to
18 report that they do not possess ID even when they
19 do. Isn't that what you're saying?

20 A. I think it raises that concern; I do.

21 Q. Paragraph 58, you say that the survey
22 subjected respondents to a lengthy and repetitive
23 set of questions regarding multiple forms of ID. Do
24 you see that?

25 A. I see Paragraph 58. Yes.

1 Q. Okay. Do you have a list of precisely
2 which questions you would have had Drs. Barreto and
3 Sanchez omit?

4 A. No, I don't believe I speak to that in my
5 report.

6 Q. Do you know how many questions you would
7 have had them omit?

8 A. I don't believe I come up with a specific
9 number.

10 Q. And do you have an idea of which questions
11 you would have them omit?

12 A. That's not something I've given thought
13 to. I'm merely commenting on the length and
14 repetitiveness of the survey.

15 Q. Do you have any concrete evidence to
16 conclude that any respondent did not choose to
17 cooperate because of the length of the question?

18 A. Well, you're asking about motivation. I
19 really can't speak to the motivation of the
20 respondents.

21 Q. Well, you said, "It is easy to imagine
22 that not all respondents choose to cooperate by
23 answering completely and honestly." Isn't that what
24 you say in that paragraph?

25 A. Yes, I believe it says it is easy to

1 imagine.

2 Q. That's speculation on your part, isn't it?

3 A. Well, there's a footnote there. Oh, here
4 it is, "Barreto and Sanchez do not report how many
5 respondents failed to complete the survey after
6 starting, but survey length, complexity, and subject
7 interest are all factors."

8 So they don't report that. That
9 might have been an indicator. It's the kind of
10 thing that you might have expected to be reported,
11 so that would be the concern that I have there.

12 Q. And do you have any support for any --
13 scholarly support for the proposition that people do
14 not answer completely or honestly if a question is
15 long?

16 A. I can recall specific instructions to
17 avoid lengthy and complicated questions from the
18 CCES, in my experience working with them.

19 Q. You cite to the McCarty article. Does the
20 McCarty article specifically state that people do
21 not answer completely or honestly if a question is
22 long?

23 A. I believe this is about drop-off.

24 Q. That's right. The McCarty article is
25 about response rates. Right?

1 A. If you want to call those response rates,
2 yeah. But these are people who agreed and then
3 dropped off.

4 Q. And we already -- and we already have
5 established that you don't criticize the response
6 rates in this survey as sufficient to support
7 conclusions. Isn't that correct?

8 A. Other than this footnote that I was
9 looking for and couldn't find. And I think
10 sufficiently explain that it was in my memory, but I
11 wasn't seeing it in the report.

12 Q. Paragraph 61, you criticize Drs. Barreto
13 and Sanchez's use of the 2013 CVAP data. Do you see
14 that?

15 A. The CVAP from 2008 to 2012 ACS, yes.

16 Q. Is the 2014 CVAP data available?

17 A. I don't believe it is available from that
18 source.

19 Q. You agree that the 2014 CVAP data will be
20 much larger than the 2012 CVAP data in Texas?

21 A. "Much" might be a debatable term. My
22 expectation is that it would be greater.

23 Q. Do you know how much greater? Do you have
24 an idea?

25 A. I did not form an estimate.

1 Q. Do you know how much Texas's population
2 grows each year?

3 A. That is not something I've spoken to in
4 the report.

5 Q. You also criticize the use of CVAP because
6 you say that it's known that CVAP overstates the
7 voting eligible population. Do you see that?

8 A. Yes.

9 Q. And what's your support for that?

10 A. I have a footnoted article here, McDonald
11 and Popkin.

12 Q. Does the McDonald article -- and that's
13 "The Myth of the Vanishing Voter"?

14 A. That's what's cited.

15 Q. Does that -- first of all, does that deal
16 with nationwide figures or Texas specific?

17 A. My recollection is that they're looking at
18 national aggregate turnout.

19 Q. And do you recall about what year that
20 article -- what year it ended its analysis?

21 A. Not off the top of my head.

22 Q. If I suggested 2000, would that refresh
23 your recollection?

24 A. Given it was published in 2002, that might
25 be plausible, but I don't recall.

1 Q. Now, the McDonald article, did it say that
2 CVAP greatly overstated VEP?

3 A. I don't believe I used quotes on that.
4 Their concern had to do with turnout rates based on
5 measurement.

6 Q. Right. And, in fact, didn't it say that
7 VAP, VAP, meaning all persons of voting age, whether
8 citizens or not, overstated VEP?

9 A. I think I'm seeing a confusion here in
10 what I wrote.

11 Q. And what's the confusion you're seeing?

12 A. Voting eligible population is typically a
13 synonym for citizen voting age population.

14 Q. Right.

15 A. So that's a goof on my part there. I must
16 have had blurry eyes and saw that. So I apologize
17 for that.

18 Q. Let's turn to Paragraph 65. You say it's
19 unclear how Barreto and Sanchez classified 34
20 respondents who did not report a race and 24 who
21 said "other." I'm sorry. And -- yes, 24 who said
22 "other." And I'm looking at -- if you compare
23 Document Number 2, Milyo Number 2 to Milyo Number 1,
24 in that paragraph, there's a change in the figure.
25 Can you tell me why the figure changed?

1 A. So which figure are you referring to?

2 Q. I'm referring to where you say, "It's
3 unclear how Barreto and Sanchez classify race and
4 ethnicity of the 34 respondents who do not report
5 race and ethnicity. Further, it is not clear how
6 they classify the" -- and in Number 2, it says 24.
7 Is that correct?

8 A. Correct.

9 Q. And originally you had 20. Is that
10 correct?

11 A. Correct.

12 Q. And can you explain the basis for the
13 change?

14 A. I don't have a specific recollection of
15 making that change, but I believe it would have been
16 going back and rechecking my count. And apparently
17 I figured 24 was more accurate than 20.

18 Q. Now, looking at Dr. Barreto and
19 Dr. Sanchez's tables and data and report, did you
20 notice that they had a column for "other"?

21 A. Can we look at their report?

22 Q. Yeah, sure.

23 (Exhibit Number 8 marked.)

24 Q. (BY MR. ROSENBERG) And drawing your
25 attention -- well, first of all, if you can identify

1 what's been marked as Exhibit Number 8. That looks
2 to be the initial report submitted by Barreto and
3 Sanchez.

4 And directing your attention to
5 page 13 of that report, Table A, have you seen that
6 table before?

7 A. If it's in their report, I would have seen
8 it.

9 Q. And there is a row for "other," is there
10 not?

11 A. There is a row for "other."

12 Q. Does that at least shed some light on the
13 question as to -- you say it's unclear how they
14 classify the 24 respondents they specify in "other"
15 response, and how they classify the race and
16 ethnicity of 34 respondents who do not record a race
17 or ethnicity?

18 A. It could. I'd have to go through and
19 check the data.

20 MR. ROSENBERG: Let me now have
21 marked this document.

22 (Exhibit Number 9 marked.)

23 Q. (BY MR. ROSENBERG) I'm showing you what's
24 been marked as Exhibit Number 9, and ask if you've
25 seen that document.

1 And for the record, that's the second
2 amended notice of deposition duces tecum to
3 Dr. Jeffrey Milyo. Do you see that? Have you seen
4 that before?

5 A. Yes, I believe so.

6 Q. And you produced documents a couple of
7 days ago in response to this duces tecum. Is that
8 correct?

9 A. That is correct.

10 Q. The documents that you produced, among
11 them, were there any documents that you had not
12 produced before?

13 A. My recollection is it was a zip file full
14 of academic articles. I tried to go through and
15 identify sources cited in the footnotes and make
16 sure that those were provided to the best of my
17 ability in there, and then I tried to address the
18 questions here to the best of my ability.

19 Q. And specifically, let's look at
20 Paragraph Number 4, which asks for documents
21 pertaining to the -- to respondents described in
22 Paragraphs 63, 64, 65, 66, 68, and 69, and 70.
23 Right?

24 A. Correct.

25 Q. Did you produce documents responsive to

1 that?

2 A. I've produced the data set from Barreto
3 and Sanchez that I was working with.

4 (Exhibit Number 10 marked.)

5 Q. (BY MR. ROSENBERG) I'm showing you what's
6 been marked as Exhibit 10. Is that what you
7 produced in response to the request number 4?

8 A. I'm not seeing it in here. I recall there
9 was a question asking for specific observation
10 numbers. And I'm -- I don't know that -- I'm not
11 seeing it here. Maybe that came from another
12 source.

13 Q. I'll represent --

14 A. This was not in -- specifically in
15 response to that.

16 Q. Did you produce documents that
17 specifically set -- other than Barreto and Sanchez's
18 own data, did you produce your own, either mark-ups
19 or printout or spit-out of data that specifically
20 identified which respondents were described in
21 Paragraph 63, the seven respondents that
22 self-identify as both white and Hispanic in
23 Paragraph 64, and so on?

24 A. I produced the original data set from
25 Barreto and Sanchez. I produced the data set that

1 included the replication variables that I used.

2 My recollection is, is that there was
3 another question -- it may have come via e-mail --
4 for specific row numbers in the data set. And so
5 this Exhibit --

6 MR. KEISTER: Let me instruct the
7 witness, to the extent you're referring to any
8 communications you may have had with counsel in this
9 case, please don't go into those. If it's not with
10 counsel, you're free to do so.

11 Q. (BY MR. ROSENBERG) Well, let me put the
12 question this way. Do you have a document -- well,
13 first of all, what's been marked Exhibit 10, that's
14 a document that you created. Is that correct?

15 A. That is correct.

16 Q. And this contains row numbers that relate
17 to the Barreto/Sanchez report. Is that correct?

18 A. That relate to the underlying data used in
19 the Barreto/Sanchez report.

20 Q. (BY MR. ROSENBERG) Professor Milyo, a
21

22 Q. So, for example, just looking at the first
23 page, this says, "Row numbers of some of the
24 problematic observations in Barreto and Sanchez
25 survey data." That's your language. Correct?

1 A. I wrote that, correct.

2 Q. Is there another document similar to this
3 that you created that also has row numbers relating
4 to the Barreto/Sanchez data, or is this the only
5 such document?

6 A. I believe this is the only such document.

7 Q. Do you have any document that specifically
8 sets forth the row numbers for individuals with
9 suspended or revoked driver's licenses as described
10 in Paragraph 66 of your report?

11 A. It's not in here?

12 Q. It is not -- I will represent it's not in
13 there. We can take a few minutes and go off the
14 record and you can look through that and compare
15 that to the requests in Number 4.

16 A. As I said, this was not developed in
17 response to this request.

18 Q. Did you develop a document in response to
19 that request that set forth the row numbers similar
20 to this document as to those respondents who are
21 described in Paragraph 46 of the subpoena duces
22 tecum?

23 A. I don't recall doing so.

24 Q. So sitting here, how can you tell me, for
25 example, which respondents you were referring to in

1 65 or 66 or 68 or 69 or 70? I assume you can't. Is
2 that correct?

3 A. We could pull up the dataset and I can
4 identify them.

5 Q. When you say that, that means you would
6 have to kind of start from scratch and compare the
7 question that was asked in the survey to the
8 Barreto/Sanchez dataset, and then you would say,
9 well, this is one and this is another, and so on?

10 A. If you wanted the specific row numbers, we
11 could go through that, or you can just do a
12 tabulation to find out -- to say the seven
13 respondents that self-identify as both white and
14 Hispanic. If you want to know the exact row number,
15 then you would have to do an exercise like this.

16 Q. And you never created a document similar
17 to this for the respondents who are described in
18 Paragraph 4 of the subpoena duces tecum?

19 A. My recollection -- and this was a thick
20 document, but it was done under a time constraint.

21 And my recollection is, I was trying
22 to be forthcoming and presenting row numbers of
23 problematic observations. That was my intent.
24 Admittedly, it was done under a time constraint.

25 Q. So just walk me through the process, that

1 when you were putting together your report and
2 identified individuals with suspended or revoked
3 driver's licenses, did you somehow write that down,
4 create a spreadsheet? What did you do so that you
5 could total up how many such people and identify
6 such people?

7 A. Well, most of these are fairly simple
8 calculations, and so it would have been entered
9 directly into the Word document and then -- as a
10 note, and then the report written, created right
11 around it.

12 It is also sometimes my habit to
13 write notes on a piece of paper. It's not my habit
14 to keep an archive of that once it's written into
15 the document.

16 Q. So you would have done it once and would
17 not have maintained that note? Did you recheck --
18 strike that.

19 Do you check over your work in that
20 regard?

21 A. There was some checking, and that was one
22 of the reasons for one of the editing changes that
23 we identified.

24 Q. And is it your testimony that you have no
25 record at home, your office, anyplace, that

1 specifies, by row number, the respondents who are
2 described in Number 4, if it's not included in
3 what's been identified as Exhibit -- Milyo Exhibit
4 Number 10?

5 MR. KEISTER: And to the extent you
6 need to review the document, please take the time to
7 do so.

8 MR. ROSENBERG: Sure.

9 THE WITNESS: I'm sorry, I couldn't
10 understand what you were saying.

11 MR. KEISTER: To the extent you need
12 to review the document to answer the question --

13 A. If this is what I sent, then this is the
14 only...

15 MR. KEISTER: But please review it
16 and see if that answers the question.

17 MR. ROSENBERG: And that's why I
18 specifically said "except as set forth in this
19 document." I'm not trying to trick him. I'm just,
20 quite frankly, trying to find out where the
21 information is.

22 MR. KEISTER: I understand. I think
23 he indicated that he thinks it's in there.

24 MR. ROSENBERG: And why don't we take
25 a break, then.

1 (Recess.)

2 Q. (BY MR. ROSENBERG) Okay. Professor
3 Milyo, did you have a chance to look at Exhibit
4 Number 10 during the break?

5 A. I did.

6 Q. And does that contain all of the
7 information that was requested in Paragraph 4 of the
8 subpoena duces tecum?

9 A. As I said to you, this wasn't produced in
10 response to that question.

11 Q. Was there another document produced in
12 response to that question that does list the rows
13 that reflect the responses of -- described in
14 Paragraph 4 of the subpoena duces tecum?

15 A. And actually I want to say, you know, the
16 timing of requests and things that were done under
17 pressure, I should answer with more caveats about to
18 the best of my recollection. I don't want to
19 misrepresent anything.

20 My recollection was that -- as I
21 stated, my understanding was, there was a request
22 for row numbers, I produced that in response to that
23 request and then I received --

24 Q. Is it Exhibit Number 9, I believe? This
25 one here?

1 A. I believe this came afterward.

2 Q. Correct. And did you comply with the
3 request that came afterward?

4 A. As I said, to the best of my ability, I
5 provided documents that I had. The only caveat that
6 I would add is that if this wasn't in the zip file,
7 my understanding was it had already been provided
8 because it had been requested. So I don't recall
9 that it was in the zip file that I sent --

10 Q. When you say this, you're referring to
11 Number 10?

12 A. To Number 10, that's correct.

13 Q. Well, let's assume that it was in the zip
14 file --

15 A. I'm sorry. Was or was not?

16 Q. Was. My problem isn't Number 10. My
17 problem is whether there's -- my concern is that
18 there's something other than Number 10 that we don't
19 have.

20 A. No. I provided documents in response to
21 this request.

22 Q. When did you provide documents in response
23 to that request? We're talking about Number 4.

24 A. This entire request.

25 Q. And the documents specifically responsive

1 to Paragraph 4, other than Exhibit Number 10, would
2 be just Barreto/Sanchez data file. Is that correct?
3 Or was there something else?

4 A. I provided two datasets, the copy from
5 Barreto and Sanchez, the so-called final clean data,
6 and then the one in which I had created a couple of
7 variables.

8 Q. And that was for your replications. Is
9 that correct?

10 A. That is correct.

11 Q. But that dataset did not include the
12 specific row numbers of the respondents described in
13 Paragraph 4 of the subpoena duces tecum. Is that
14 correct?

15 A. Well, if you click on "browse data," there
16 will be row numbers in there. So, yes, it does
17 include row numbers.

18 Q. So you're saying that if we look at that,
19 we would be able to identify each and every one of
20 the persons that -- for example, in Paragraph 64 you
21 describe as individuals with suspended or revoked
22 driver's license?

23 A. I'm sorry, are we on Milyo 1?

24 Q. No. Back in Document Number 4, which
25 refers to Paragraph 66.

1 A. Document 4?

2 Q. I'm sorry. Paragraph 4 of Document 9.

3 A. Document 9, which is referring to a
4 paragraph in Milyo -- is it 2 or --

5 Q. It doesn't matter. It will be the same
6 thing. It's Paragraph 66.

7 A. Okay. So I have the stuff in front of me
8 here. So what was the question?

9 Q. All right. Well, let's look at
10 Paragraph 67 of which document you're looking at.
11 Milyo which?

12 A. 2.

13 Q. Okay. And that says, first, Barreto and
14 Sanchez include individuals with suspended or
15 revoked driver's licenses among the group that lacks
16 requisite ID. Correct?

17 A. That's what that says.

18 Q. And you're telling me that if we click
19 on the browse function, did you say?

20 A. Or you browse the data, yes.

21 Q. If we browse the data that you sent in
22 response to subpoena, we will be able to identify
23 specifically which individuals you're referring to
24 in Paragraph 67?

25 A. You will be able to identify if you do --

1 it would be easier if you did a tabulation first on
2 the response to the relevant ID question, and then
3 you could identify observation numbers or row
4 numbers for individuals with suspended or revoked
5 driver's license.

6 Q. But will those necessarily be the same
7 ones that you identified?

8 A. I identify that there were people with
9 this characteristic. And from my understanding of
10 the way --

11 Q. Go ahead.

12 A. From my understanding of the way in which
13 Barreto and Sanchez create their ID variable, it
14 appears that they treat individuals with suspended
15 or revoked licenses as individuals who do not have a
16 driver's license for SB 14 purposes.

17 Q. By the way, as to the individuals that you
18 identified in that -- formed in that category, did
19 you check those respondents' answers to see if they
20 were -- had been able to look at their license
21 during the survey?

22 A. We would have to look to where the number
23 of them is described. So I think it would be
24 helpful if we pull up the survey, since you're
25 asking about specific survey questions and

1 tabulations of data results.

2 Okay. So Question 7A asks
3 specifically about the series of questions about the
4 license being currently valid, suspended, or revoked
5 or maybe lost or stolen, or you don't have it in
6 your possession.

7 Q. So how does that respond to my question?

8 A. I'm not remembering your question. I've
9 been looking at the survey instrument.

10 Q. Okay. Let me ask my question again.

11 Did you check respondents' answers to
12 see if they were able to look at their license
13 during the survey? And that would be on 7B. Isn't
14 that correct?

15 A. I've certainly looked at 7B. What is your
16 question?

17 Q. My question is whether, as to any of the
18 people whom you identified as having a suspended or
19 revoked license, you looked at their answer to 7B
20 and took that into consideration as to how to
21 classify this --

22 A. What I was pointing out is question by
23 question, responses that seemed problematic.

24 Q. Well, let me ask you this. If a voter
25 indicated that his or her license was suspended, but

1 the voter was not able or not willing to take out
2 the driver's license and check the expiration date,
3 for example, how did you classify that voter?

4 A. I didn't do that kind of a classification.
5 I don't believe that that's claimed in the report.
6 I looked sequentially at the answers to each type of
7 question, trying to understand the nature of
8 responses that people gave.

9 Q. And in your replication, did you just omit
10 all persons who stated that they did not -- well,
11 strike that.

12 How do you treat people who responded
13 that their license was suspended or revoked?

14 A. Which replication?

15 Q. In any of the replications.

16 A. Well, let's see, in Replication 1, I do my
17 best to -- following the report here in Barreto and
18 Sanchez, to classify individuals who are without an
19 ID, and then go back and ten if any of them --
20 specifically, I omit responses that give answers of
21 don't know.

22 So these would be people who were
23 classified as not having ID, but had given an
24 unsure, maybe, can't remember, don't know, or
25 refused to provide an answer to any ID question. So

1 they were classified as not having ID, even though
2 they didn't affirmatively say that they did not have
3 an ID.

4 Q. Did this -- did the answer to 7A on
5 suspension or revocation factor into --

6 A. Right. So continuing past --

7 THE REPORTER: Wait, you guys are
8 starting to talk over each other. It's getting late
9 in the day and I can't keep up.

10 THE WITNESS: My apologies.

11 A. Paragraph 73, there's a semicolon and so
12 the sentence continues, I also omit respondents
13 having a suspended driver's license.

14 And so, again, this would be
15 individuals that were classified as not having an
16 ID, but had reported -- or otherwise classified as
17 not having an ID, but reported to have a suspended
18 driver's license. The intention is to omit those as
19 well.

20 So these would be these sort of
21 responses where we're not sure if a person has the
22 requisite ID or not. What happens if we omit them
23 from the analysis? That's Replication 1.

24 Replication 2 is identical to
25 Replication 1, but then does some additional

1 changes. 3 is identical to 2, with some additional
2 changes. And 4 is identical to 2 with some
3 additional changes.

4 Q. (BY MR. ROSENBERG) Turn to Paragraph 68.
5 And that's a paragraph where you made a change if
6 you want to compare Milyo 1 to Milyo 2, or simply
7 trust the redline in Milyo 3.

8 A. Paragraph?

9 Q. 68.

10 A. It's a long paragraph. I will try to find
11 it in the redline.

12 Q. Which is Milyo 3. And the change I want
13 to focus on is, you took out all 44 of these cases,
14 is that correct, and you added the words "appeared
15 to"? And this is in the next-to-last sentence of
16 that paragraph.

17 A. So in 68, the last sentence --
18 next-to-last sentence -- that appears to be correct,
19 yes.

20 Q. And why did you do that?

21 A. Again, the nature of these changes was, I
22 had identified a couple of instances where it looked
23 like I was either unclear or not accurate, and I was
24 trying to improve the clarify and accuracy.

25 Q. And do you have any notes relating to

1 those changes?

2 A. No. Just the reports.

3 Q. I'd like to turn to the creation of the
4 replications themselves. When you say in your
5 report that you took out certain respondents, does
6 that mean that you completely took them out of
7 the -- your calculations? You did not treat them as
8 either yes or nos as to ID?

9 A. I just want to get to that section of the
10 report.

11 So in Replication 1 where I say, Omit
12 certain respondents, that would be correct, that the
13 analysis would be done without including those
14 respondents.

15 Q. Did you run any of -- make any runs of
16 replications that are not included in your report?

17 A. Quite possibly, yes.

18 Q. Do you know which ones? Let me strike
19 that.

20 Did they take into consideration --
21 I'm sorry.

22 Were those other runs based upon --
23 including certain of the respondents you identified,
24 but not others, for example, perhaps including
25 suspended people but not revoked --

1 A. No.

2 Q. -- or anything like that?

3 A. No, not of that -- not that sort of
4 micromanaging. It was more an issue of, did it make
5 more sense to -- you know, how to order these things
6 and running the estimates with and without weights,
7 issues of that sort. But I didn't -- I don't recall
8 sort of mixing and matching these categories.

9 The only thing that comes to mind
10 would be -- let's see, which is the most expansive
11 here -- is 75. This was one where you could go --
12 this is Replication 3, I believe, refused to
13 indicate race. This is where you could go on and on
14 with sort of respondents who have given inconsistent
15 answers of one type or another. And so I think
16 it -- I just sort of truncated it here rather than
17 incorporating every possible instance of an
18 inconsistency that I could -- that I could go
19 through.

20 Q. By the way, do you have any scholarly
21 research or secondary literature support for your
22 treating of what you call ambiguous answers the way
23 you did?

24 A. It would not be uncommon, in empirical
25 analysis of surveys, to check sensitivity analysis

1 to different ways of coding responses, and
2 especially with regard to nonresponses.

3 Q. But specifically in your report, you do
4 not list any of scholarly research support or
5 academic literature support for what you did. Is
6 that correct?

7 A. For what I did?

8 Q. Yeah, for your omitting what you
9 considered to be ambiguous answers.

10 A. I don't see any footnotes here in the
11 report, if that's what you're asking.

12 Q. Now, when you mentioned that you looked at
13 different -- whether to weight it or not. Is that
14 what you just said, in terms of some of these other
15 runs you were --

16 A. That would be one -- that would be one
17 specification I recall looking at. And -- yes.

18 Q. How did you wind up ultimately weighting
19 what --

20 A. What I did ultimately is to try to tow as
21 closely as possible to what appeared to be the
22 analysis in Barreto and Sanchez. So I used their
23 weights, I used their tests of statistical
24 significance. I used their Logit analysis.

25 Q. And did you find any problems with those

1 weights that they had chosen or their statistical
2 significance approach or any of those things that
3 you applied to your replications?

4 A. I did not. As we covered already, I did
5 not produce any opinions about the weights or
6 criticize the weights. In terms of a particular
7 statistical test, it seemed more straightforward to
8 just use the same one that they did. I wanted to
9 focus the comparison on what happens if we make
10 these particular changes.

11 MR. ROSENBERG: Do you want to take a
12 quick break?

13 (Discussion off the record.)

14 Q. (BY MR. ROSENBERG) Now, when you dropped
15 what you call the ambiguous cases from the data,
16 that winds up with -- you wind up with a smaller
17 sample of the data. Is that correct?

18 A. That would be correct. It's a subsample.

19 Q. Did you -- did you reconstruct the weights
20 of the new smaller dataset?

21 A. I did not reconstruct weights.

22 Q. Do you think you should have reconstructed
23 weights?

24 A. It's not uncommon, in statistical analyses
25 and sensitivity analysis, to do something exactly

1 like what I did here.

2 Q. Even when you are reducing the universe,
3 reducing the size of the dataset?

4 A. It's not uncommon to look at subsamples.

5 Q. Without doing any kind of reweighting?

6 A. It's not uncommon to do that.

7 Q. Do you have any scholarly literature,
8 academic support, secondary support for that
9 proposition?

10 A. It's not something that I cited in the
11 report.

12 Q. Okay. Let's turn to a slightly different
13 subject. You reviewed the reports of Drs. Chapman
14 and Henrici and Jewel and Webster. Is that correct?

15 A. I've looked at them, yes.

16 Q. Now, do you criticize Dr. Webster and
17 Chapman because they analyze travel time in terms of
18 time rather than money?

19 A. Can you refer me to where in the report I
20 discuss that?

21 Q. Well, I was hoping you would do that. But
22 let's start with 115, I am told. Actually 1 -- you
23 can read over 113, 114, and 115.

24 A. Okay. I see a typo. Okay.

25 Q. Are you criticizing Drs. Webster and

1 Chapman because they analyzed travel time in terms
2 of time rather than money?

3 A. No. I believe the point here is about the
4 existence of opportunity costs that might vary.

5 Q. So it's not your position that the only
6 way to approach this issue is to monetize it, is it?

7 A. I don't believe I say that.

8 Q. Did you have a chance to review
9 Dr. Chapman's reply report?

10 A. I'm sure I've glanced at it. I can't --
11 nothing -- there's so many reports, I can't really
12 recall anything specific.

13 Q. Do you agree with the proposition that
14 it's well accepted within the fields of urban
15 planning and transportation studies that the effort
16 involved in individuals traveling from one location
17 to another by automobile, public transportation, or
18 walking may be measured by examining the time or
19 distance associated with such trips, with a
20 preference for using time because it accounts for
21 differential speeds of different mode choices?

22 MR. KEISTER: Object to form. You
23 can answer.

24 A. That was a very long statement. I think
25 the first part of it, if you would repeat it, would

1 help me answer it.

2 Q. (BY MR. ROSENBERG) Sure. That it's well
3 accepted within the fields of urban planning and
4 transportation studies that the effort involved in
5 individuals traveling from one location to another,
6 by car, public transportation, or walking, may be
7 measured by examining time or distance associated
8 with such trips?

9 A. I don't believe I report any opinion that
10 speaks directly to that.

11 Q. So you don't dispute that?

12 A. I have no basis to dispute it.

13 Q. Do you dispute that there is a preference
14 for using time because it accounts for differential
15 speeds of different mode choices?

16 A. I don't speak to that in my report.

17 Q. So you have no basis to dispute that?

18 A. I have not disputed that in my report.

19 Q. In Paragraph 119 of your report, you say
20 that experts for the plaintiff adopt methodologies
21 that exaggerate the travel costs of obtaining IDs,
22 and you go on to describe that position as
23 ridiculous, and explaining that if a rational person
24 desires to travel to multiple destinations, for
25 example, the bank, the grocery store, and the post

1 office, then they endeavor to minimize travel time
2 by combining activities into as few trips -- you say
3 tips; I assume you meant trips -- as possible.

4 Have you ever heard of the expression
5 "trip chaining"?

6 A. I have heard of it.

7 Q. Do you agree that trip chaining is
8 substantially harder for people who are not
9 traveling by car, but instead by public
10 transportation or walking?

11 A. I imagine it would depend on the context.

12 Q. Are you disputing that trip chaining is
13 substantially harder for people who are not
14 traveling by car, but are traveling by public
15 transportation, for example?

16 A. I'm saying it depends on the context.

17 Q. Well, you can't redirect a train, for
18 example. Is that correct? You cannot redirect a
19 train to a -- to stop it there --

20 A. But you were making a general statement.

21 Q. Right.

22 A. And I said it depends on the context.

23 Q. Do you dispute the principle that it is
24 generally accepted that trip chaining is
25 substantially harder for people who are not

1 traveling by car, but instead are traveling by
2 public transportation or walking?

3 A. I don't think my report speaks to that.

4 Q. So you don't dispute that as a general
5 proposition?

6 A. I don't believe my report disputes that.

7 Q. You understand that Dr. Chapman has found
8 that it's almost entirely those individuals who are
9 traveling by public transportation who would
10 experience the greatest travel burden in obtaining
11 an EIC? Do you understand that as being his
12 conclusion, one of his conclusions?

13 A. I would have to look back at the -- there
14 were so many reports, I would have to look back at
15 that one. I don't believe I specifically spoke to
16 that in my report.

17 Q. So you don't challenge the specific
18 finding that -- assuming that that was Dr. Chapman's
19 specific finding, that it is almost entirely those
20 individuals who would travel by public
21 transportation who would experience the most travel
22 burden?

23 A. I don't believe I speak to that in my
24 report.

25 Q. Paragraph 120, you indicate that the

1 potential costs of obtaining identification may be
2 ameliorated by the actions of neighbors, friends,
3 relatives, et cetera. Do you see that?

4 A. Yes, I do.

5 Q. Now, you agree that that is unpredictable
6 in the sense that that's going to vary from
7 individual to individual and circumstance to
8 circumstance?

9 A. Well, being variable and unpredictable are
10 two different concepts.

11 Q. Well, do you agree that is unpredictable?

12 A. I think I need to know what you mean by
13 unpredictable.

14 Q. Well, I'll accept what your definition is
15 if you tell me what your definition is.

16 A. That there's some probability.

17 Q. Let's start there. Can you quantify how
18 likely it is that potential costs of obtaining
19 identification may be ameliorated by the actions of
20 neighbors, friends, relatives, et cetera?

21 A. I have not attempted to quantify that in
22 my report.

23 Q. Are you aware of any study that has looked
24 at that issue of how potential costs of reducing
25 travel burden may be ameliorated by the actions of

1 neighbors, friends, or the like?

2 A. I do not cite such studies here.

3 Q. Are you aware of any such studies, whether
4 you cite them here or not?

5 A. Well, there's a very large literature on
6 social capital, which is in general about how
7 connections between individuals can provide
8 different kinds of benefits, and rides would be an
9 example of one of those kinds of benefits.

10 There's also a -- literature about
11 the mobilization effects of different kinds of
12 phenomena where political entrepreneurs may try to
13 facilitate the ability of people to vote.

14 So I'm aware of some general
15 literatures that might apply, but in terms of a
16 specific study that I would have cited, I do not
17 have a footnote here.

18 Q. And you agree that there would be -- there
19 could be, for example, quid pro quo, which could be
20 a cost in terms of asking a neighbor or a friend to
21 provide a ride?

22 A. We could consider a number of scenarios
23 and different possibilities. That might be one.

24 Q. And so there would be costs even if people
25 were able to get rides from neighbors or friends,

1 and there's a time value, for example, in searching
2 for a ride. Correct?

3 MR. KEISTER: Objection; form. Calls
4 for speculation.

5 MR. ROSENBERG: I agree with that.

6 Q. (BY MR. ROSENBERG) But you can answer.

7 A. I believe the point here is in terms of
8 what the experts for the plaintiff did or did not
9 consider. And so the examples that you're bringing
10 up would also be things that they did not consider.

11 Q. And the other side of that coin, for
12 example, you did not consider that even for
13 households who supposedly have access to a car, that
14 the car may be broken down. Correct?

15 A. In what sense should I be considering
16 that?

17 Q. Well, you're talking about amelioration by
18 the actions of neighbors, friends, relatives,
19 coworkers, et cetera. But there are also conditions
20 that could make -- could go in the other direction
21 that may vary by individual by individual, even if
22 someone has access to a car?

23 A. So are you imagining a scenario where a
24 car is permanently broken down?

25 Q. Perhaps, or that the person did not have

1 access to the car even if there's a car in that
2 household. It's certainly possible, isn't it?

3 A. So the question is?

4 Q. That there are factors that go in the
5 other direction of amelioration that may vary
6 individual by individual.

7 A. I would have to look back at their study
8 to -- you know, you're asking me to make additional
9 criticisms of what they have done. The opinions
10 that I've produced in the report are those that I've
11 thought about.

12 Q. Can you testify, to a reasonable degree of
13 scientific certainty, that the amelioration of
14 burden that you describe in Paragraph 120 will
15 decrease the travel time burden borne by blacks and
16 Hispanics compared to non-Hispanic whites?

17 A. I don't believe that I state that in the
18 report.

19 Q. Now, Paragraph 121, you theorize that even
20 if it costs money to get the underlying documents
21 for an EIC, the cost is not totally attributable to
22 the cost obtaining the EIC. Is that correct?

23 A. I'm sorry, what paragraph?

24 Q. 121.

25 A. And so what is the question?

1 Q. You theorize that even if it costs money
2 to get the underlying documents for an EIC, the cost
3 is not totally attributable to the cost of obtaining
4 an EIC?

5 A. What do you mean by theorize?

6 Q. Well, that's your theory, your opinion;
7 you opine.

8 A. I state here that one would want to
9 apportion that in some way.

10 Q. You do admit that at least \$3 for a birth
11 certificate is attributable entirely to the cost of
12 obtaining an EIC. Is that correct?

13 MR. KEISTER: Object to form.

14 A. I believe I state here that some
15 individuals can buy a \$3 EIC. So, I'm sorry, what's
16 the question?

17 Q. (BY MR. ROSENBERG) Well, that the \$3 for
18 the birth certificate which you describe in
19 Paragraph 121 is attributable entirely to the cost
20 of obtaining the EIC.

21 MR. KEISTER: Object to form.

22 A. Well, the context here goes on to discuss
23 other things.

24 But in terms of what document you're
25 using, my understanding is, the EIC is only useful

1 for the purpose of voting. So in that sense, the \$3
2 would be a cost of doing that and it doesn't
3 necessarily provide any concomitant benefits, other
4 than the ability to vote in multiple elections.

5 Q. (BY MR. ROSENBERG) In Paragraph 122, you
6 say that because an EIC is valid for six years, you
7 should divide the cost of obtaining it by the number
8 of elections -- and I think that's what you're
9 referring to -- that a voter will be able to
10 participate in during that six-year life of the EIC.
11 Right?

12 A. I believe it says one way of doing so. It
13 should be apportioned in some manner over time.

14 Q. Now, you agree that time spent in travel
15 is perishable, do you not?

16 A. What do you mean by "time spent in travel
17 is perishable"?

18 Q. You don't get it back.

19 A. I don't know that we get any time back.

20 Q. Right. Are you aware of a single study
21 that stands for the proposition that individuals
22 view travel time in the same way that they view --

23 A. I'm sorry, there was crosstalk. Would you
24 mind starting over with the question?

25 Q. I didn't hear the crosstalk. I must have

1 missed something.

2 MR. POSNER: Whispering too loudly.

3 Q. (BY MR. ROSENBERG) Are you aware of a
4 single study that stands for the proposition that
5 individuals view travel time in the same way that
6 they may view an investment in durable goods, where
7 a theory of behavior based on amortization may have
8 some value?

9 A. I don't believe I cite a study of that
10 sort.

11 Q. Paragraph 124, you raise the question,
12 "Does the individual bear any responsibility for
13 maintaining a record of citizenship and voter
14 eligibility." Do you see that?

15 A. I do.

16 Q. Can you think of reasons as to why a
17 person who might not have an ID does not necessarily
18 bear a responsibility for that situation?

19 A. That wasn't what I was thinking about
20 there in this context. The context I had in mind
21 is, the same person losing their ID documents
22 multiple times and whether we should consider that
23 something --

24 Q. Other than that example, you agree that
25 there are many instances you can think of where a

1 person is not at fault for not having an ID. Is
2 that correct?

3 A. I haven't thought about it. I don't
4 believe I discussed that here.

5 Q. Do you dispute that notion?

6 A. What notion?

7 Q. That a person may not bear fault for not
8 having an ID?

9 A. What do you mean by "fault"?

10 Q. Well, you used the word "responsibility."
11 You say, "Does the individual bear any
12 responsibility for maintaining a record of
13 citizenship and voter eligibility?"

14 Can you think of instances where the
15 person does not bear responsibility for not having a
16 record of citizenship and voter eligibility?

17 A. Well, it's not something I've spoken to in
18 the report.

19 MR. ROSENBERG: I am going to pass --
20 yep, I'm passing the witness to Mr. Freeman. If you
21 want to take a break now --

22 MR. FREEMAN: I'm fine. Would you
23 like to take a break, sir?

24 THE WITNESS: Let's keep going.

25 (Discussion off the record.)

EXAMINATION

BY MR. FREEMAN:

Q. Professor Milyo, I introduced myself earlier, but, again, my name is Dan Freeman, and I represent the United States in this litigation. And essentially the same rules apply as Mr. Rosenberg explained earlier.

I know we've been going for a while, and there are miles to go before we sleep. But if you need another break, let me know, happy to take one. If you need coffee, water, happy to make sure that you have that. Is that okay?

A. Yes.

Q. Okay. First off, just so you know, as a ground rule, I'm only going to be discussing your August 15th report. So when I refer to your report, that will just be Exhibit 2, which you have in front of you. Correct?

A. Correct.

Q. Okay. First, did you read the corrected report of Dr. Stephen Ansolabehere in its entirety in preparation for your August 1st report?

A. Are you referring to the supplemental report from Dr. Ansolabehere?

Q. I'm referring to the corrected report.

1 A. I'm trying to recall how many Ansolabehere
2 reports there have been.

3 Q. I can represent to you that there was an
4 initial report and then there was a correction in
5 which there were just some slight modifications made
6 to that initial report, and that was at the end of
7 June /beginning of July. And then there was a
8 supplemental report.

9 So I'm referring to the middle
10 report. Did you read that report in its entirety in
11 preparation for your August 1st report?

12 A. My recollection is that the report -- and
13 there may have been appendicis -- was quite long.
14 So I don't think I would say that I have literally
15 read it from cover to cover.

16 Q. And how many hours did you spend reviewing
17 Dr. Ansolabehere's report, to the best of your
18 recollection?

19 A. I really don't have a basis for making
20 that estimate. I mean, it's...

21 Q. More than 10?

22 A. I don't recall. And in part, it's hard to
23 answer because there were multiple reports. And one
24 might look from one to another.

25 Q. Did you at any time sit down and say, now

1 I'm going to read Dr. Ansolabehere's report, and
2 read that report, or was it more of a back-and-forth
3 process, just so I understand?

4 A. I've probably looked at that report
5 multiple times.

6 Q. Did you read the corrected report of
7 Dr. Barry Burden in its entirety in preparation for
8 your August 1st report?

9 A. And, again, there's multiple reports
10 moving around.

11 Q. I will represent to you again, very
12 similarly to Dr. Ansolabehere's report, there was an
13 initial report and then there was a corrected report
14 in which just one paragraph was changed, just one,
15 and that was filed, I believe, early July; and then
16 there was a supplemental report. So I'm referring
17 again to the middle one. Did you read -- and that's
18 the longer one.

19 Did you read that report in its
20 entirety in preparation for your August 1st report?

21 A. The Burden report that I read, I don't
22 recall if there were appendicis or not to that
23 report. Can we take a look at it?

24 Q. You know, I've printed a lot of things.
25 I'm not certain that I printed that, but it is my

1 recollection that there were not appendices.

2 MR. ROSENBERG: I'm sorry, which
3 report?

4 MR. FREEMAN: Burden.

5 MR. ROSENBERG: Which one, the
6 original?

7 MR. FREEMAN: The corrected.

8 MR. ROSENBERG: But not the reply
9 report?

10 MR. FREEMAN: No, not the reply.

11 Q. (BY MR. FREEMAN) Excluding any appendices
12 that there may have been, did you read the corrected
13 report of Dr. Burden in its entirety?

14 A. My recollection is that I would have.
15 Although, again, with multiple copies of reports
16 running around, it's difficult to be 100 percent
17 sure at this stage.

18 Q. Did you read the corrected report of
19 Dr. Chandler Davidson in its entirety in preparation
20 for your August 1st report?

21 A. My recollection with Davidson -- I'm not
22 recalling his corrected report. Do you have a copy
23 of it? You might refresh my memory.

24 Q. Again, I can represent to you that the
25 corrected report was nearly identical to the

1 original report, but for a small change in a single
2 number reflecting a change in Dr. Ansolabehere's
3 initial report, a correction.

4 So did you -- do you recall -- did
5 you read the entire, either original report or
6 corrected report of Dr. Chandler Davidson in its
7 entirety?

8 A. You know, so many experts, so many
9 reports. I'm actually not recalling the Davidson
10 report. Let's see. To the best of my recollection,
11 I would have -- I think I need to see it to really
12 recall.

13 Because if there were appendices --
14 some of them have numerous appendices and I'll admit
15 to if they weren't directly relevant to things that
16 I was going to be speaking to, that I would have
17 just glanced at them.

18 Q. Let's exclude appendices to make this
19 easier. Excluding appendices, do you recall if you
20 read the entirety of Dr. Davidson's report in
21 preparation for your August 1st report?

22 A. I'd like to see the report to refresh my
23 memory.

24 Q. I have a copy of Dr. Davidson's
25 supplemental report, which is similar, although some

1 paragraphs have changed. But perhaps this can
2 refresh your recollection. If we are just using it
3 to refresh, we won't mark this as an exhibit.

4 A. I recall reading much of this. There was
5 one section that's referencing events in the '60s
6 that is less familiar to me at this point in time.
7 But I believe I did read through the Davidson
8 report --

9 Q. Okay.

10 A. -- at some point.

11 Q. So at some point you read it cover to
12 cover. Is that your testimony?

13 A. That is my recollection at this time.

14 Q. Okay. Did you read the report of Yair
15 Ghitza in its entirety in preparation for your
16 August 1st report?

17 A. Can we see the report?

18 Q. It's the individual who is employed by
19 Catalist.

20 A. I know. But there's lots of reports with
21 lots of pages, and you seem to be being very
22 specific, and so I want to be thorough in my
23 response.

24 Q. Well, perhaps we can -- to the extent that
25 you're going to want to see them, we will have them

1 printed out and we'll get you a copy and we'll come
2 back to this, to the extent you're not able to
3 answer. So I'll just mark these down.

4 MR. FREEMAN: Let's go off the record
5 for a moment.

6 (Discussion off the record.)

7 Q. (BY MR. FREEMAN) Dr. Milyo, did you -- to
8 your recollection, did you read the report of
9 Dr. Jane Henrichi in its entirety in preparation for
10 your August 1st report?

11 A. Can we see the report?

12 Q. We'll get that for you, then, after a
13 break.

14 And did you read the corrected report
15 of Dr. Gerald Webster in its entirety in preparation
16 for your August 1st report, geographer from the
17 University of Wyoming, if that helps.

18 A. It helps. But, again, there were many
19 reports, many different names.

20 Q. Okay.

21 A. And...

22 Q. Then we will loop back to those three.
23 That's fine.

24 At this time have you read the
25 supplemental and reply report of Dr. Barry Burden in

1 its entirety?

2 A. I know I've looked at the report. I
3 haven't had a lot of time to absorb it.

4 Q. Okay. So you've looked at it but you
5 haven't necessarily read it in its entirety. Is
6 that correct?

7 A. You know, I don't keep a spreadsheet of
8 what I've read in its entirety versus read one half
9 one day and the other 49 percent another day. These
10 are differently -- you know, in that sense, it's
11 difficult.

12 Q. So you're not certain?

13 A. I know I've looked at that report.

14 Q. Okay. But you're not certain if you've
15 read it in its entirety?

16 A. I believe I've said I've looked at that
17 report.

18 Q. And my question is whether you've read it
19 in its entirety, and if you're certain that you've
20 read it in its entirety.

21 A. I am not certain that I have read it in
22 its entirety.

23 Q. Thank you. And have you read the
24 supplemental report of Dr. Chandler Davidson in its
25 entirety?

1 A. Again, I'd like to see the report.

2 Q. That one is right here. And it's actually
3 the report that I showed you before, it's just that
4 there is an updated version of it, which is the
5 actual version that you have in front of you now.

6 A. For this supplemental report, I recall
7 looking to see if there were any particular
8 responses to my report.

9 Q. And what particular responses were you
10 looking for?

11 A. Well, I was looking for whatever
12 particular responses might exist.

13 Q. What types of responses were you looking,
14 for, though, other than looking for your own name to
15 appear in the report?

16 A. To see if it seemed to be addressing any
17 arguments that would be relevant to my report.

18 Q. And what arguments were those with regard
19 to Dr. Davidson?

20 A. Again, I haven't had a lot of time with
21 the supplemental reports. I haven't produced a
22 document in response to them, so that would be going
23 beyond the opinions that I've expressed in my report
24 and something that I could do and speak to in the
25 future. But at this time, I haven't really spent

1 enough time with all the different supplemental
2 reports.

3 Q. Well, sir, you just testified a moment ago
4 that you were looking through that specific report,
5 looking for specific responses to specific
6 critiques. And my question is: What specific
7 responses to specific critiques were you looking
8 for?

9 A. And I think you have put words in my
10 mouth.

11 Q. If we could, I guess, go back, then. If
12 we could look back on the record to his response
13 when I asked if he had looked through the
14 supplemental report of Dr. Davidson.

15 And so I asked: "This one is right
16 here. And it's actually the report that I showed
17 you before, it's just that there is an updated
18 version of it, which is the actual version that you
19 have in front of you now?"

20 And you answered, "For this
21 supplemental report, I recall looking to see if
22 there were any particular responses to my report."

23 I asked: "And what particular
24 responses were you looking for?"

25 And you answered, "Well, I was

1 looking for whatever particular responses might
2 exist."

3 Now, my question is: What particular
4 responses to your report were you looking for?

5 A. And as I answered, I didn't have a
6 particular expectation of what I might see. It was
7 a new report that I looked at.

8 And also as I've said, I haven't had
9 sufficient time to really absorb and think about the
10 supplemental reports.

11 Q. So you skimmed through the supplemental
12 reports. Would that be accurate?

13 A. I've said I've looked at the supplemental
14 reports.

15 Q. Have you read the supplemental report of
16 Dr. Gerald Webster in its entirety?

17 A. I believe, as with the others, I've looked
18 at the supplemental reports. And I don't recall
19 Webster's supplemental report. If you could produce
20 that, it might help refresh my memory.

21 I'm sorry, what was the question?

22 Q. Having now reviewed the supplemental
23 report of Dr. Webster, the question is: Have you
24 read the supplemental report of Dr. Gerald Webster
25 in its entirety?

1 A. I don't believe so.

2 Q. Did the State of Texas provide you with
3 additional data from Dr. Ansolabehere in July or
4 August of 2014?

5 A. What do you mean by "additional data"?

6 Q. Did the State of Texas provide you with a
7 dataset produced by Dr. Ansolabehere in either
8 July or August of 2014?

9 A. I know there were some zip files sent
10 fairly recently. July, I think not. But July is
11 right next to August, so it's hard to be definitive.

12 Q. It would have been the very end of July or
13 anytime in August.

14 MR. KEISTER: And let me caution the
15 witness to please respond only to his question and
16 not to anything related to communications with the
17 Attorney General's Office, outside of what he's
18 asking you.

19 A. With this case there have been a number of
20 datasets produced by different experts. You know,
21 if you can show me the particular files, that might
22 help in terms of answering whether I had them and at
23 what time.

24 Q. (BY MR. FREEMAN) Now, you're aware that
25 in this case, the State of Texas, when it initially

1 produced the Department of Public Safety's driver's
2 license database, omitted 3.1 million records from
3 that first production. Correct?

4 A. My understanding is that there was some
5 sort of problem.

6 Q. And are you aware of whether
7 Dr. Ansolabehere conducted initial -- excuse me,
8 additional analysis after receiving those 3.1
9 million additional records, as well as information
10 related to the card status field that was related to
11 that production error?

12 A. I know that there was a recently produced
13 Ansolabehere report that comes up with different
14 numbers and presumably is based upon the updated
15 data. I recall an explanation of that in his
16 report.

17 Q. And did you receive the underlying data
18 that was produced related to that report, prior to
19 the date that you produced your supplemental report?

20 A. I didn't rely on it in any report that I
21 did, so I don't recall if I did or didn't or have.
22 I have not looked at that data.

23 Q. And why did you not look at that data?

24 A. Because I did not have time and it was not
25 within the -- I want to say purvey. I'm not sure if

1 that's the right word -- my assignment here and time
2 constraints.

3 Q. Did you ever ask the State of Texas if you
4 could have an extension to the deadline to produce
5 your August 15th report?

6 A. I didn't know I could ask for an
7 extension.

8 Q. So, no, you did not ask?

9 A. I did not ask for an extension.

10 Q. And to the extent that Dr. Ansolabehere's
11 additional data took into account the 3.1 million
12 records that had not been produced and that his
13 results changed significantly as a result of
14 including those 3.1 million records, it's your
15 opinion that it was not within the purview of your
16 report to assess those updated data files from
17 Dr. Ansolabehere?

18 A. I did not assess the un-updated data files
19 in doing my report. The report was based on the
20 description of his analysis in his report.

21 Q. And so you never looked at the underlying
22 data files that he produced to see if the no-match
23 number, for example, was lower once the 3.1 million
24 records were included?

25 A. No, I did not.

1 Q. And you didn't look to see what racial
2 disparity existed based on Catalist race estimates
3 in the updated data prior to producing your
4 supplemental rebuttal report. Correct?

5 A. In the updated which data?

6 Q. In the August data that he produced that
7 included analysis of the 3.1 million previously
8 omitted DPS records.

9 A. I did not look at those DPS records.

10 Q. You did not look at Dr. Ansolabehere's
11 analysis based on those DPS records, correct, based
12 on your --

13 A. Correct. As I stated, I looked at his
14 reports.

15 Q. And you didn't think that it was within
16 the scope of your report to assess
17 Dr. Ansolabehere's underlying data once he had
18 received the omitted DPS records?

19 MR. KEISTER: Objection; asked and
20 answered.

21 Q. (BY MR. FREEMAN) Correct?

22 A. The scope of the report is potentially
23 enormous and beyond what any one human being could
24 do. So I had limited time and ability.

25 And as I explained in the report, I

1 give opinions on things that I have been able to
2 analyze and discuss.

3 Q. But you have not been able to analyze and
4 discuss Dr. Ansolabehere's analysis of the matching
5 results once those matching results included the 3.1
6 million DPS records. Correct?

7 A. You keep saying "his analysis." Do you
8 mean his report or the underlying data?

9 Q. I mean the underlying data that he
10 produced.

11 A. I have not examined the underlying DPS
12 data.

13 Q. And have you examined the post-match data
14 that Dr. Ansolabehere produced to the State of Texas
15 prior to the production of your August 15th report?

16 A. No.

17 Q. I'd like to start off by talking about
18 database matching as a general matter. If you could
19 turn to Paragraph 21 of your report.

20 Am I correct that in Paragraph 21,
21 you state, "I am unaware of any scholarly studies
22 that analyze the effect of voter ID by examining
23 non-matches between a State voter registration
24 database and external databases"?

25 A. That's what's written there.

1 Q. And do you make a similar statement in
2 Paragraph 22?

3 A. Uh-huh. There is a similar statement
4 there.

5 Q. Have you ever relied on database matching
6 in any part of your own scholarly work?

7 A. And I am aware that Professor Ansolabehere
8 has cited a study claiming that it's a contradiction
9 to that claim. Having seen that, I might change the
10 wording of this to be more accurate.

11 Q. So as you stand now, you would -- you
12 would no longer assert that you are unaware of any
13 scholarly studies that analyze the effect of voter
14 ID by examining non-matches?

15 A. Well, the study that he refers to
16 specifically is estimating effects of ID on turnout
17 where they use a matched dataset as an input. I
18 don't recall that the authors describe doing the
19 matching analysis.

20 So the distinction here is between
21 studies that are analyzing turnout as an effect of
22 voter ID versus those that stop by just looking at
23 matching data bases and pointing to persons that may
24 or may not have ID.

25 So I understand his point, and I

1 agree that I did not state this in a way that is
2 clear or correct. So it could be edited. I'm not
3 good at editing on the fly here.

4 Q. So what you're unaware of was not studies
5 that examine the effect of voter ID by examining
6 non-matches. You're unaware of studies that measure
7 the effect of voter ID in terms of non-matches.
8 Would that be more accurate?

9 A. At that time, yes. I would say that the
10 idea of trying to evaluate voter ID based on
11 non-matches of this sort of database matching solely
12 is what I had in mind.

13 Q. Okay. Back to the question I asked a
14 moment ago. Have you ever relied on database
15 matching in any form in part of your own scholarly
16 work?

17 A. Well, what do you mean exactly by database
18 matching?

19 Q. Record linkages between large databases.

20 A. I think in the spirit of your question, in
21 terms of replicating this kind of analysis, no.
22 There are other ways of matching databases, but I
23 don't think you mean that.

24 Q. Okay. Are you aware of whether database
25 matching has been used in other areas of social

1 science, outside of the studies of the effects of
2 voter ID?

3 A. I don't know that I cite any in my report.

4 Q. My question is to your awareness as a
5 social scientist as to whether database matching is
6 an accepted practice in the study of social science
7 and --

8 A. I have a general awareness that there
9 exists studies or people who do database matching.

10 Q. And that's an accepted practice within the
11 social sciences. Correct?

12 A. I suppose it depends how it's done.

13 Q. A properly conducted database match would
14 be an accepted practice within the social sciences.
15 Correct?

16 A. That sounds like a tautology. Yes.

17 MR. FREEMAN: Mark this as
18 Exhibit 11.

19 (Exhibit Number 11 marked.)

20 Q. (BY MR. FREEMAN) Dr. Milyo, what is this
21 document?

22 A. This looks to be a copy of a report that I
23 wrote for the Institute of Public Policy at the
24 Truman School at the University of Missouri.

25 Q. And this is a working paper. Correct?

1 A. No. It's a policy report. I believe
2 that's what they call it.

3 Q. So it's not published in a peer-reviewed
4 journal of any kind; it's simply published by an
5 institution within the University of Missouri?

6 A. That is correct.

7 Q. Okay. Let's turn to end note 3.

8 A. Oh, end.

9 Q. It's on page 8. In end note 3, you cite
10 to a 2007 working paper by Hood and Bullock.
11 Correct?

12 A. Well, I'd have to look in the references.

13 Q. I'll represent to you that the Hood and
14 Bullock reference is in the same paragraph as the
15 Gerber and Green reference. There should have been
16 a carriage return there, and there is not.

17 A. That looks like, yes, it's referencing a
18 working paper.

19 Q. And that was a scholarly study that
20 analyzed the effect of voter ID by examining
21 non-matches between a State voter registration
22 database and an external database. Correct?

23 A. Which was?

24 Q. The Hood and Bullock article -- or working
25 paper from 2007.

1 A. I don't remember the specifics of that
2 working paper from 2007. Do you have a copy?

3 Q. We'll get there in a moment. If you could
4 look at your end note 3, would that refresh your
5 recollection as to the substance of that working
6 paper?

7 Having reviewed end note 3, would you
8 agree that the 2007 working paper was a scholarly
9 study that analyzed the effect of voter ID by
10 examining non-matches between a State voter
11 registration database and external databases?

12 A. I cite one -- one thing here about that
13 study. Without looking back at the 2007 study that
14 I wrote about in 2007, it's difficult to remember
15 what exactly was in that working paper.

16 Q. Well, you assert that Hood and Bullock
17 found that about 5 percent of registered voters in
18 Georgia do not have a valid driver's license or
19 State identification card. Correct?

20 A. That's what's stated in end note 3 here.

21 Q. And you state here that Hood and Bullock
22 made a rather egregious error in that study. Am I
23 correct?

24 A. There is the statement, "This is a rather
25 egregious error."

1 Q. So you assert that Hood and Bullock made a
2 rather egregious error in their study. Am I
3 correct?

4 A. In this end note 3 of the 2007 report.

5 Q. And that's a report that you wrote?

6 A. That's correct.

7 Q. Okay. And what you describe as an error
8 was that Drs. Hood and Bullock did not investigate
9 how many of the registered voters' names in Georgia
10 are actually attached to eligible voters. Correct?

11 A. That's what's written here.

12 Q. Is that the same deadwood issue that you
13 describe in your August 15th report in Exhibit 2?

14 A. I'd have to look back at the report to see
15 the context.

16 Q. So you can't tell me, sitting here today,
17 whether the issue that you identify in end note 3 is
18 the same issue that you identify in your August 15th
19 report related to deadwood? You're not able to do
20 that?

21 A. I would like to look back at that report
22 and get a recollection of what it is they did that I
23 was talking about. It's difficult to think back
24 seven years, out of context.

25 Q. But reading end note 3 is not enough

1 information for you to be able to understand your
2 own critique. Is that what you're saying?

3 A. I'd like to be more certain.

4 Q. That's fine.

5 MR. ROSENBERG: Why don't we take a
6 break.

7 (Recess.)

8 Q. (BY MR. FREEMAN) Okay. We're back on the
9 record. And we now have a copy of the 2007 working
10 paper from Drs. Hood and Bullock.

11 So I believe my question was -- well,
12 going back to the beginning, Drs. Hood and Bullock,
13 that was a scholarly study that analyzed the effect
14 of voter ID by examining non-matches between a State
15 voter registration database and external databases.
16 Correct?

17 A. I would have to look at it.

18 MR. FREEMAN: We can go off the
19 record.

20 (Discussion off the record.)

21 A. So what's the question about this working
22 paper?

23 Q. (BY MR. FREEMAN) The question was whether
24 this was a scholarly study that analyzed the effect
25 of voter ID by examining non-matches between a State

1 voter registration database and external databases.

2 A. This is a study that, in part, does an
3 analysis or a prediction of possession of ID and
4 also looks at voter turnout.

5 Q. And the prediction of possession of voter
6 ID is based on an examination of non-matches between
7 a State voter registration database and external
8 databases. Correct?

9 A. That's my understanding, from trying to
10 glance through the 2007 working paper.

11 Q. And in your 2007 report, which has been
12 marked Exhibit 11, you assert that Hood and Bullock
13 found that about 5 percent of registered voters in
14 Georgia do not have a valid driver's license or
15 State identification card. Correct?

16 A. This is end note 3?

17 Q. End note 3 on page 8.

18 A. The quote here is that they argue that
19 about 5 percent of registered voter names do not
20 have a valid driver's license or State
21 identification card.

22 Q. And you state, in end note 3, that Hood
23 and Bullock made a rather egregious error in their
24 study. Am I correct?

25 A. That is stated there in end note 3.

1 Q. And you keep using the passive voice. But
2 this is your writing. You stated, in this paper,
3 that they made a rather egregious error. Correct?

4 A. Well, it's the past tense. I'm trying
5 to -- in 2007, yes. What's written here is, this is
6 a rather egregious error.

7 Q. And what you describe as a rather
8 egregious error was that Dr. Hood and Dr. Bullock
9 did not investigate how many registered voters'
10 names in Georgia are actually attached to eligible
11 voters. Correct?

12 A. That would seem to be the statement here.

13 Q. Is that the same deadwood issue that you
14 describe in your report in this case?

15 A. I would have to look back at exactly what
16 they did to further understand if that's exactly the
17 same deadwood issue that I have referenced in
18 multiple occasions in the report. It's a more
19 complicated question than it seems.

20 Q. What is your understanding of the term
21 "deadwood"?

22 A. I believe that I use the term deadwood --
23 I note in footnote 4 that in my report, I'm using
24 the term "deadwood" to describe any name listed in a
25 database of registered voters that's not a real

1 person, not alive, not residing at that address, or
2 otherwise not actually an eligible voter.

3 Q. And is the same deadwood issue you discuss
4 in your report in this case, the same issue that you
5 discuss in end note 3 of your 2007 report?

6 A. Without having read Hood and Bullock in
7 detail to verify, I would say that it appears to be,
8 sitting here.

9 Q. And was Hood and Bullock's total failure
10 to investigate deadwood, did that render their
11 analysis fatally flawed, according to your paper?

12 A. I'm not seeing the words "fatally flawed."
13 Do you see where that's written?

14 Q. I'm not asking if it's a verbatim
15 recitation in there. I'm asking, from your
16 analysis, to the extent that you are able to
17 understand what you previously wrote, would you say,
18 to your mind, that the total failure to investigate
19 deadwood rendered that analysis fatally flawed?

20 A. I think what I would say is what is
21 written here.

22 Q. My question is, is that analysis fatally
23 flawed due to the failure to investigate deadwood?

24 A. Well, your -- there's more to what they do
25 than just that, so we would have to look through.

1 But as I've stated here, there's a
2 concern about registered voter names that are not
3 actually attached to eligible voters.

4 Q. An egregious concern?

5 A. I believe I said an egregious error.

6 Q. Are you aware of whether Dr. Hood and
7 Dr. Bullock's working paper was eventually published
8 in a peer-reviewed journal?

9 A. Well, if you show me the article that they
10 published, I could compare them.

11 Q. I'm asking to your knowledge, right now.
12 Do you know if the 2007 working paper was eventually
13 published in a peer-reviewed journal?

14 A. I know that they have a recent publication
15 in a peer-reviewed journal, and this is a
16 seven-year-old working paper that I have limited
17 recollection of.

18 Q. So you don't know if that working paper,
19 as you sit here now, became an article in a
20 peer-reviewed journal. Is that correct?

21 A. Well, I imagine there may have been some
22 changes.

23 Q. Do you know if a subsequent iteration or
24 revision of that particular paper was published in a
25 peer-reviewed journal?

1 A. Well, let's check and see if the title is
2 exactly the same. That might be one way to answer.
3 If you don't want to provide me the article.

4 Q. I'm asking for your current knowledge.

5 MR. FREEMAN: Let the record reflect
6 that the witness is examining Exhibit 2 at this
7 time.

8 A. I'm looking for the title of the published
9 article.

10 Q. (BY MR. FREEMAN) Perhaps this is easier.
11 Without looking at your report, are you able to tell
12 me, yes or no, whether or not you currently know
13 whether that 2007 working paper was published in a
14 peer-reviewed journal in a subsequent revision?

15 A. Well, I just found the section I was
16 looking for.

17 Q. There we go. Having now looked at your
18 report for a few minutes, are you able to say
19 whether or not the 2007 working paper was
20 subsequently published in a peer-reviewed journal?

21 A. Darn it, I'm looking for the particular
22 citation to see if there was any change in the
23 title.

24 Q. Having looked at your report for a few
25 minutes, you are not able to tell me, from your

1 personal knowledge and your expertise as a social
2 scientist, whether or not the 2007 working paper was
3 published in a revised form in a peer-reviewed
4 journal. Is that correct?

5 A. Well, that's a different question than
6 you've been asking me repeatedly.

7 Q. And I'm trying to speed up the process,
8 because you've been looking at your report for
9 approximately five minutes. Is that correct?

10 A. My understanding is that a revision of
11 this paper was published.

12 Q. Okay. Are you aware of whether Dr. Hood
13 and Dr. Bullock published a second article in a
14 peer-reviewed journal in which they also relied on
15 database matching to assess the impact of Georgia's
16 voter ID law?

17 A. We've cited many papers here, and at this
18 late point in the day, papers are running together
19 in my mind, so...

20 Q. I'm happy to refresh your recollection on
21 that one.

22 MR. FREEMAN: Mark this as
23 Exhibit 12.

24 (Exhibit Number 12 marked.)

25 Q. (BY MR. FREEMAN) Dr. Milyo, what is that

1 document? What is Exhibit 12?

2 A. This is a copy of a paper. The title is
3 "Much Ado About Nothing."

4 Q. Are you familiar with that paper?

5 A. Yes, I am.

6 Q. Have you read it before?

7 A. I have.

8 Q. And is this a second article published by
9 Dr. Hood and Dr. Bullock in a peer-reviewed journal
10 in which they rely on database matching to assess
11 the impact of Georgia's voter ID law?

12 A. As we have already discussed, this is a
13 paper in which they analyze voter turnout based on a
14 matched database that they access, I believe, from
15 the -- I believe it's from the State of Georgia, in
16 the analysis.

17 Q. Are you aware of whether Dr. Charles
18 Stewart has published an article in the Oklahoma Law
19 Review in which he relied on database matching to
20 assess the impact of South Carolina's voter ID law?

21 A. You know, I have not been aware of the
22 Oklahoma Law Review article until I recently saw a
23 reference to it. I noticed it in one of the
24 supplemental reports, I believe.

25 Q. At this time, are you now aware whether

1 Dr. Charles Stewart has published an article in the
2 Oklahoma Law Review in which he relied on database
3 matching to assess the impact of South Carolina's
4 voter ID law?

5 A. I am aware of the claim. I have not
6 looked up the original article yet and read it for
7 myself.

8 Q. So you're aware that he has published a
9 scholarly work in which he relied on database
10 matching to assess the impact of South Carolina's
11 voter ID law. You just haven't personally assessed
12 the article yourself. Would that be fair?

13 A. I am aware of the claim made in one of the
14 supplemental reports. I haven't looked up the
15 article and read it for myself.

16 Q. So would it then be fair to say you're not
17 familiar with the entire scholarly literature on
18 assessments of the effects of voter ID laws?

19 A. There are new papers coming out all the
20 time. If we're going back to working papers from
21 seven years ago or longer, in terms of what's
22 committed to memory and can be called up
23 immediately, that would not be something I would be
24 able to do without refreshing my recollection or
25 doing additional research.

1 Q. What about an article published in 2013 by
2 Dr. Charles Stewart? You weren't aware of that
3 prior to this litigation. Is that correct?

4 A. The Oklahoma Law Review article?

5 Q. Yes.

6 A. The Oklahoma Law Review article was one
7 that I was not aware of.

8 Q. Okay. Have you ever attempted to obtain a
9 driver's license database for research purposes?

10 A. No.

11 Q. Are you aware of whether states usually
12 make such files available outside of litigation?

13 A. I am not aware.

14 Q. If you could turn to Paragraph 14 of your
15 report, Exhibit 2.

16 To your knowledge, is the number
17 of -- is the number of eligible voters that you
18 describe experts for the plaintiffs claiming lack
19 SB 14 ID contained in Paragraph 14, still accurate?
20 Does it accurately reflect the current claims of
21 experts for the plaintiffs?

22 A. There have been supplemental and revised
23 reports, using additional data where the overall
24 numbers have changed.

25 Q. So the numbers in Paragraph 14, no expert

1 for any of the plaintiff groups continues to make
2 the claim that you describe in Paragraph 14. Is
3 that correct?

4 A. No, I don't believe that's correct.

5 Q. You believe that some experts still
6 maintain that more than 1 million eligible voters in
7 Texas lack SB 14 ID?

8 A. No. I said I don't believe it.

9 Q. Okay.

10 A. Because I believe Barreto and Sanchez did
11 an estimate of voters, and I'm not recalling
12 offhand, without looking back at their supplemental
13 report, whether they have removed that from their
14 report. There would be no reason for them to do so,
15 but I believe they came up with an estimate of 1.2
16 million voters without ID, based on the first cut of
17 their survey.

18 Q. None of the experts who are using a
19 database-matching methodology are continuing to
20 assert that more than 1 million otherwise eligible
21 voters in Texas lack SB 14 ID. Correct?

22 A. As I said before, I haven't had a lot of
23 time with the supplemental reports, and so this was
24 written based on the reports that I had at the time.

25 Q. Did you have access to data, prior to

1 August 15th, based on that you could have updated
2 this figure?

3 MR. KEISTER: Objection; form.

4 A. I'm not sure what you mean by "data."

5 Q. (BY MR. FREEMAN) Did you have access to
6 data produced by Dr. Ansolabehere prior to
7 August 17th, based on which you could have updated
8 this figure to more accurately reflect the claims
9 being made by plaintiffs' database-matching experts?

10 A. Which claim?

11 Q. The claim that more than 1 million
12 otherwise eligible voters in Texas lack SB 14 ID.

13 A. I don't recall being in possession of the
14 data, but I know that I did not examine data for
15 that purpose.

16 Q. Would you agree that every paragraph in
17 your report in which you assert that
18 Dr. Ansolabehere found a specific number of
19 non-matched voters, is no longer accurate?

20 A. I would need to compare my report to his
21 report, paragraph by paragraph, to answer that.

22 Q. Would you agree that every paragraph in
23 your report in which you assert that
24 Dr. Ansolabehere found a specific number of
25 unmatched voters reflects the analysis conducted by

1 Dr. Ansolabehere prior to receiving 3.1 million
2 additional DPS records?

3 A. That sounds more accurate.

4 Q. And to the extent that Dr. Ansolabehere is
5 no longer asserting that his prior figures are
6 accurate, because he lacked those records, would you
7 agree that your descriptions of his assertions are
8 no longer accurate?

9 A. No.

10 Q. And why is that?

11 A. The criticisms and -- that I make, many of
12 them are about the conceptual analysis, which has
13 not changed.

14 Q. I apologize. My question was
15 insufficiently precise.

16 Would you agree that every paragraph
17 in your report in which you assert that
18 Dr. Ansolabehere found a specific number of matches
19 based upon the data that did not include 3.1 million
20 additional DPS records, that the numbers in your
21 report are no longer accurate because they no longer
22 reflect claims currently made by Dr. Ansolabehere
23 after receiving the complete DPS data?

24 A. So if I understand you correctly, it's my
25 quoting specific numbers out of Dr. Ansolabehere

1 which were accurate, but given that he's changed his
2 numbers, would now be different, is your concern.

3 Q. That's correct.

4 A. I have not gone through every paragraph to
5 check that. We could do so.

6 Q. Would you agree that all of the figures in
7 your report reflect the pre -- reflect the numbers
8 contained in Dr. Ansolabehere's reports prior to his
9 receipt of the additional 3.1 million records?

10 A. That would have been the intention, yes.

11 Q. And so any figure that you include in your
12 report that is derived from Dr. Ansolabehere's prior
13 reports no longer reflects Dr. Ansolabehere's
14 current analysis. Is that correct?

15 A. This has not been updated, given any
16 corrected or supplemental reports.

17 Q. But you had the data from Dr. Ansolabehere
18 prior to the publication of his updated report that
19 you could have used to produce updated numbers in
20 your own report. Isn't that right?

21 A. I don't believe I said that.

22 Q. You're saying that you did not receive
23 additional data from -- that Dr. Ansolabehere
24 produced prior to producing your August 15th report?

25 A. I don't believe I said that either.

1 Q. Those were two sides of the same coin.

2 A. And you're demanding --

3 Q. I'm demanding --

4 A. -- an affirmative answer.

5 Q. Yes. One or the other.

6 A. And to the spirit of your question --

7 Q. Thank you.

8 A. There has been a dump of documents from
9 the other experts. In my report I have not done
10 original data analysis of those database and so I
11 have not used or done the analysis that you're
12 describing. I can't tell you with certainty when
13 they were dumped.

14 Q. Okay. Are you aware of Dr. Ansolabehere's
15 final no-match estimate?

16 A. The exact number?

17 Q. I'm not going to ask you to repeat it.
18 I'm just asking whether you have seen it.

19 A. I have looked at his most recent report.

20 Q. Does your report contain any opinions
21 regarding the size or plausibility of
22 Dr. Ansolabehere's final no-match estimate?

23 A. In terms that the methods that he uses are
24 similar, yes.

25 Q. Does your report contain any opinions

1 regarding the size or plausibility of
2 Dr. Ansolabehere's final no-match estimate?

3 MR. KEISTER: Objection; form. Asked
4 and answered.

5 A. As I've stated, the specific numbers may
6 change, but to the extent the methods are similar
7 and what I identify in my report are criticisms of
8 methods and interpretations, those would still
9 stand.

10 Q. (BY MR. FREEMAN) But does your report
11 contain any opinions regarding the plausibility of
12 the raw number of Dr. Ansolabehere's final no-match
13 estimate?

14 A. Is there a section that you're referring
15 to specifically?

16 Q. I'm asking whether the entirety of your
17 report contains any opinions regarding the
18 plausibility of the final number of estimated
19 no-matches that Dr. Ansolabehere found to exist in
20 Texas's voter registration database.

21 MR. KEISTER: Objection; form. It's
22 been asked and answered twice.

23 MR. FREEMAN: It's been asked. It
24 hasn't been answered.

25 MR. KEISTER: It's been answered.

1 You don't like the answer but he answered it. He
2 said he's -- the methods he's criticizing, and you
3 asked the plausibility of it. He's answered it.

4 Q. (BY MR. FREEMAN) My question is not about
5 the methods. It's about the number. I'm asking you
6 to answer the question that I'm asking rather than
7 the question that you'd like me to ask.

8 My question is: Does your report, in
9 any point, contain any opinion regarding the
10 plausibility of the number, just the number -- not
11 how he got there, but the number of no-matches that
12 Dr. Ansolabehere finds to exist based on his
13 analysis of Texas's voter registration database?

14 MR. KEISTER: Objection; form. It's
15 been asked and answered. You're putting
16 plausibility in there and thus creating a vagueness
17 in your question.

18 But the question has been asked and
19 answered twice, and I'll object to the side-bar
20 comments. But to the extent you can --

21 Q. (BY MR. FREEMAN) You may answer.

22 A. First of all, you're using the word "any"
23 and "anywhere." And to be completely sure, I would
24 need to look through to see, for example, if I
25 relied on the size of the specific number when

1 comparing it to, say, other estimates and other
2 expert reports.

3 But you also used the word
4 "plausibility," which has to be related to the
5 methods by which the number is estimated.

6 Q. So you didn't change any of the numbers in
7 your report from your August 1st report to the
8 August 15th report. Is that correct?

9 A. I believe we have already gone over the
10 minor editing changes that were made between the two
11 reports.

12 Q. Was that at all responsive to the question
13 that I just asked?

14 A. Yes --

15 MR. KEISTER: Objection; side-bar.
16 Yes, Counsel, it was. He hasn't produced another
17 report after Dr. Ansolabehere did his report.

18 Q. (BY MR. FREEMAN) Does your report provide
19 any new numbers as to the results of
20 Dr. Ansolabehere's matching process? Yes or no?

21 A. I have not updated the report in reliance
22 on his supplemental or corrected report.

23 Q. Do you identify any specific steps that
24 you believe Dr. Ansolabehere should have taken in
25 his database-matching process that he did not take?

1 A. Well, I think one step that's identified,
2 as Dr. Ansolabehere has emphasized in his own
3 research, the importance of cleaning the
4 registration database before attempting any
5 matching. And he's used the Catalist data to do
6 that.

7 One of the points I made in my report
8 is that he doesn't attempt to do that until about --
9 I don't have his report in front of me. It's
10 somewhere around page 40 of his analysis.

11 So he conducts the great bulk of his
12 analysis using methods that he has very strongly
13 criticized in his own scholarly research. So that
14 would be one specific step that I am critical of.

15 I believe the nature of other
16 criticisms have to do with the extent of being
17 forthcoming about the potential errors or biases in
18 the numbers that are derived.

19 MR. FREEMAN: Not my question, so I'm
20 going to object.

21 Q. (BY MR. FREEMAN) And I'm going to ask
22 again: Do you identify any specific steps that you
23 believe Dr. Ansolabehere should have taken in his
24 database-matching process but did not take?

25 A. I believe I've answered that question so I

1 don't think I'm understanding your question.

2 Q. You identified a step that
3 Dr. Ansolabehere did take, but did not take until
4 you believe, it's your opinion, too late in the
5 report. Correct?

6 A. Well, he conducts a great deal of analysis
7 without taking that step.

8 Q. Is it your belief that he conducted no
9 database cleaning to remove deceased individuals
10 prior to conducting the bulk of his analysis?

11 A. That's not what I said.

12 Q. I'm asking, is that your belief?

13 A. I believe, from his report, he describes a
14 number of steps regarding cleaning that he did later
15 as part of the sensitivity analysis.

16 And I don't believe, from his
17 reports, that he conducted those same steps prior to
18 the initial no-match list.

19 Q. So it's your understanding that prior to
20 the initial no-match list, he did not conduct any
21 steps to remove any deceased individuals on the team
22 database. Is that correct?

23 A. That's not what I said.

24 Q. Is it your understanding that
25 Dr. Ansolabehere removed -- took steps to remove

1 deceased individuals who might be on the team
2 database, prior to conducting his initial no-match
3 list?

4 A. I know that there were multiple different
5 versions of no-match lists created, and to be
6 completely sure, would need to look back at them.

7 What I referenced was the extent and
8 number and thoroughness with which one might do that
9 kind of cleaning, comparing his scholarly work to
10 what he did in this report.

11 Q. But you would agree, first off, that
12 Dr. Ansolabehere did take extensive steps to remove
13 deceased individuals from the team database prior to
14 conducting any matching exercise. Is that correct?
15 Prior to producing his initial no-match count. Is
16 that correct?

17 A. You're using the word "extensive," which
18 seems value laden. That's different than saying
19 there may have been some steps. And that's
20 different from saying, taking all the steps that
21 might have reasonably been done.

22 Q. Well, I'm asking if -- that was my
23 question. I'm asking you to answer that question.

24 Did he take extensive steps to remove
25 likely deceased individuals from the team database

1 prior to producing his initial no-match count?

2 A. Given his report, it's clear that he
3 didn't take all the steps that he might have done.
4 Given his scholarship, it's clear that he didn't
5 take all the steps that he might have done. And
6 given, the results are dramatically different from
7 one section of the report to the other, it seems
8 that the cleaning was insufficient to --

9 MR. FREEMAN: Objection;
10 nonresponsive.

11 Q. (BY MR. FREEMAN) My question is whether
12 he took extensive steps to remove deceased
13 individuals from the team database prior to
14 producing his initial no-match count?

15 MR. KEISTER: Object to form. Asked
16 and answered.

17 A. You seem to be placing weight on the word
18 "extensive" and you're not liking how I'm
19 interpreting that word. Do you want to give me a
20 definition?

21 Q. (BY MR. FREEMAN) If you don't like the
22 word extensive, you can say no. That's fine. But
23 please answer my question. If you think no, then
24 say no.

25 A. I prefer to use what I think is a more

1 accurate word.

2 Q. So please.

3 A. I don't believe that he took sufficient
4 steps in doing the initial no-match list.

5 Q. Would you agree that he took some steps to
6 remove deceased individuals from the team database
7 prior to producing his initial no-match estimate?

8 A. I don't recall all of the steps. My
9 impression is that there were some steps taken.

10 Q. And you would agree that the additional
11 steps that you suggest he might have taken, he did
12 take during his sensitivity analysis. Is that
13 correct?

14 A. There are some additional steps that he
15 might have taken that he did take in the sensitivity
16 analysis.

17 Q. Does your report identify any additional,
18 specific steps that you believe Dr. Ansolabehere
19 should have taken at any point in his
20 database-matching process, but never took?

21 A. Well, let me refresh my recollection.

22 I believe the opinions in the report
23 are contained to the actions actually taken. I
24 think I -- well, I'm going to need a moment to find
25 the relevant sections.

1 MR. FREEMAN: That's fine. We can go
2 off the record.

3 (Recess.)

4 Q. (BY MR. FREEMAN) Now that you've had the
5 opportunity to review the report, can you identify
6 any specific steps that Dr. Ansolabehere should have
7 taken in his database-matching process, but never
8 took at any point in his report?

9 A. I believe that the criticisms of the
10 database matching are more in the spirit of being
11 forthcoming about weakness -- weaknesses in the
12 method or the interpretation of the result.

13 The only thing that I recollected
14 that I was looking for here that might speak to your
15 question is that Ansolabehere would have had an
16 opportunity to further check the veracity of the
17 non-matches by using the Catalist data to -- the
18 updated Catalist data to see whether supposed
19 non-matches had actually voted since the passage of
20 SB 14. That's mentioned in Paragraph 154.

21 Q. But any subsequent Catalist data would not
22 reflect the snapshot of who had voter -- or who had
23 SB 14 ID on the date in question when the relevant
24 data was pulled from the databases. Is that
25 correct? It might show individuals who obtained

1 SB 14 ID after the date of the relevant snapshot.

2 Correct?

3 A. I suppose it depends which election we are
4 looking at that they report voting in.

5 Q. Any election subsequent to the snapshot.

6 A. But I believe there would also be
7 elections prior, so we could have a way to identify
8 a problem with potential non-matches. That would
9 also potentially be the case with non-matches who
10 report voting afterward. We don't know the reason
11 that those supposed non-matches voted.

12 Q. I would appreciate if you would answer the
13 question that I asked. And the question that I
14 asked was, elections subsequent to the snapshot
15 would not indicate if a person had ID on the date of
16 the snapshot because they could have obtained ID
17 afterwards. Isn't that correct?

18 A. There would be uncertainty as to whether
19 the individual had ID on the date of the snapshot --

20 Q. Thank you.

21 A. -- for elections subsequent, after the
22 snapshot.

23 Q. Does your report identify any additional
24 data cleanup or preparation steps that
25 Dr. Ansolabehere should have taken, but did not?

1 A. Yes.

2 Q. And what are those?

3 A. Well, I believe another set of criticisms
4 has to do with the classification of race and
5 ethnicity.

6 Q. Are those data cleanup or preparation
7 steps prior to the match?

8 A. Oh, I'm sorry, you asked prior to the
9 match?

10 Q. Data cleanup or preparation steps. That's
11 what data cleanup and preparation steps are in a
12 database-matching process.

13 Are you familiar with the terminology
14 used in database matching?

15 A. In an analysis, preparation can mean any
16 number of things, so I'm sorry. I was thinking more
17 broadly of his analysis.

18 Q. That's fine. My question is, does your
19 report identify any data cleanup or preparation
20 steps that Dr. Ansolabehere should have taken prior
21 to running his matching combinations, but did not?

22 A. Other than the concerns that have been
23 mentioned, I did not suggest specific steps to be
24 taken.

25 Q. And does your report provide any

1 additional matching combinations that
2 Dr. Ansolabehere should have used, but did not use?

3 A. Broadly speaking, the only one of those
4 would be what I just mentioned, matching two
5 individuals who we have evidence have voted.

6 And you'll have to forgive me, I
7 would have to look through the report to find it
8 exactly. I recall a question about whether
9 Ansolabehere had looked to see if -- using the
10 Catalist data, if individuals had reported voting or
11 being registered in other states. I don't recall
12 specifically where it is in the report or even if
13 it's in the report, but I get the sense that no one
14 wants me to take a look through.

15 Q. Dr. Milyo, do you know what a matching
16 combination is?

17 A. They are the paradigms by which the
18 databases are matched.

19 Q. They're the combinations of fields by
20 which databases are matched?

21 A. And I was talking about matching to
22 another database to clean the database before the
23 analysis.

24 Q. So that was not, in fact, responsive to my
25 question. Correct?

1 MR. KEISTER: Object to form.
2 Argumentative.

3 A. I don't remember.

4 Q. (BY MR. FREEMAN) My question was: Does
5 your report provide any additional matching
6 combinations, combinations of fields that
7 Dr. Ansolabehere should have used, but did not?

8 A. I do not identify specific fields that
9 should have been used.

10 Q. Does your report contain any critique of
11 the use of one-to-many matching?

12 A. I do not include any critique of
13 one-to-many matching.

14 Q. Would you agree that one of the principle
15 findings of Dr. Ansolabehere's report is the
16 existence of a racial disparity in SB 14 ID
17 possession?

18 A. I believe that is a characterization of
19 his findings.

20 Q. Would you agree that for every universe of
21 registered voters analyzed by Dr. Ansolabehere,
22 including the universe of registered voters that you
23 describe as his hidden finding, that a disparity in
24 ID possession exists between Anglo voters and
25 African-American voters, and between Anglo voters

1 and Hispanic voters?

2 A. For the reasons that I've laid out in my
3 report, I have concerns about that interpretation.

4 Q. Would you agree that for every universe of
5 registered voters analyzed by Dr. Ansolabehere,
6 including the universe of registered voters that you
7 believe he should have focused on primarily, that
8 Dr. Ansolabehere found a disparity in ID possession
9 based on race?

10 A. Again, for reasons that I've mentioned in
11 my report, I have concerns about -- if your question
12 is, what does he claim he finds, then I believe
13 that's accurate.

14 Q. Would you agree that for every method of
15 estimating the race of voters employed by
16 Dr. Ansolabehere, with regard to the universe of
17 voters that you believe is the proper universe of
18 voters, the racial disparity in ID possession
19 persists?

20 A. I don't believe that I made a claim about
21 what is the proper universe of voters.

22 Q. You claimed that Dr. Ansolabehere should
23 have taken the steps that led him to what you called
24 the hidden finding, the total number, that reduced
25 total number. Correct?

1 A. I believe what I said is that there's --
2 given his own scholarship, that he has been very
3 critical of matching processes that don't attempt to
4 clean -- preclean the data more aggressively than it
5 appears he did for the bulk of his analysis.

6 So I'm not saying that that's the
7 proper method, but that would be an improvement.

8 Q. And are there further improvements that
9 you identify in your report that should have been
10 made beyond what he made to get to that last number,
11 but did not do?

12 A. Which last number?

13 Q. What you call his hidden finding.

14 A. Well, are we talking about the aggregate
15 number of persons that he claims do not have SB 14
16 ID or by race?

17 Q. First, the aggregate number. Are there --
18 based on the aggregate number -- let's get to the
19 aggregate number.

20 You would agree that there are no
21 additional slices or dices that you can identify
22 past that aggregate number that he should have done,
23 but didn't do. Correct?

24 A. I don't believe I state that in the
25 report.

1 Q. You don't believe that you state that
2 there are no additional steps that he should have
3 done, but didn't do?

4 A. Now, there's too many nos there. It's
5 hard for me to follow that.

6 Q. Would you agree that for the universe of
7 voters that you describe as the hidden finding, that
8 there is a disparity in ID possession within that
9 universe of voters, based on race?

10 A. So now --

11 Q. Based on the analysis performed by
12 Dr. Ansolabehere?

13 A. So you've changed the question now to be
14 about the differences by races and ethnicity. So we
15 are not talking about the aggregate number?

16 Q. We are talking about the disparity.

17 A. So I've raised a number of concerns about
18 the racial classifications, and so the
19 interpretation of those numbers, I believe I do
20 identify additional methods that should have been
21 explored in that analysis.

22 Q. Are you aware of the current list
23 maintenance practices of the Texas Secretary of
24 State with regard to the Texas voter registration
25 file?

1 A. Other than something about some missing
2 3 million observations, no.

3 Q. Did you ask anyone to provide you with
4 information regarding the current list maintenance
5 practices of the Texas Secretary of State with
6 regard to the Texas voter registration file?

7 A. No.

8 Q. If you could turn to Paragraph 27 of your
9 report. You point to particular anomalies in
10 Texas's voter registration data, discussing a 2012
11 article by Dr. Ansolabehere. Correct?

12 A. That looks to be correct.

13 Q. And that 2012 article was based on 2010
14 data. Correct?

15 A. Well, they were obtained by Catalist in
16 2010.

17 Q. And did you ask anyone to provide you with
18 information regarding changes in list maintenance
19 practices since 2010?

20 A. No, I have not.

21 Q. Does Texas attempt to remove deceased
22 individuals from its voter registration list?

23 A. I don't know for a fact. I would assume
24 so.

25 Q. How does Texas attempt to remove deceased

1 individuals from its voter registration list?

2 A. I do not know.

3 Q. How often does the Texas Bureau of Vital
4 Statistics submit a list of deceased individuals to
5 the office of the Secretary of State to facilitate
6 the removal of deceased individuals from the Texas
7 voter registration list?

8 A. I do not know.

9 Q. Does Texas engage in database matching in
10 order to identify voters who are also on the list of
11 deceased individuals provided by the Bureau of Vital
12 Statistics?

13 A. I don't know for a fact.

14 Q. Are you aware of whether or not Texas
15 matches its voter rolls to the Social Security death
16 master file?

17 A. I do not know.

18 Q. Do you know how many times a year Texas
19 engages in that match?

20 A. I do not know.

21 Q. Do you know how long Texas has used the
22 Social Security death master file for removing
23 deceased individuals from its voter rolls?

24 A. I do not know.

25 Q. Would you agree that the more often the

1 office of the Texas Secretary of State matches voter
2 rolls to lists of deceased individuals, the less
3 deadwood there will be on the rolls?

4 A. All else constant?

5 Q. All else constant.

6 A. Assuming no errors going the other
7 direction?

8 Q. Would you agree, all else constant, that
9 the more often that the office of the Texas
10 Secretary of State matches its voter rolls to lists
11 of deceased individuals and removes the individuals
12 who were found to be on those lists, the less
13 deadwood there will be on the rolls?

14 A. That's not something that I've spoken to
15 in my report.

16 Q. Would you agree, as a social scientist,
17 that that is a correct and accurate statement?

18 A. It sounds plausible.

19 Q. Sounds correct and accurate?

20 A. I said it sounds plausible.

21 Q. I'm asking if it's correct and accurate?

22 A. I like the word plausible better.

23 Q. I like my question.

24 MR. KEISTER: Object to form.

25 Argumentative. And this is outside the expert's

1 report and what he's designated for. But to the
2 extent that you want to try and answer it, then go
3 ahead.

4 A. I'm not comfortable making definitive
5 answers that go beyond my report, which is the
6 reason for my caution.

7 Q. (BY MR. FREEMAN) If you could turn to
8 Paragraph 44 of your report. You assert that
9 Dr. Ansolabehere has noted in prior research that
10 Catalist may not be able to identify a large number
11 of actual dead voters. Correct?

12 A. Is there a line within 44? That's a long
13 paragraph.

14 Q. Lines 3 through 4, does this state, "In
15 one recent study, Ansolabehere speculates that
16 Catalist may not be able to identify a large number
17 of actual dead voters on State registration rolls."
18 Is that correct?

19 A. That looks like a verbatim statement of
20 what I've written.

21 Q. But Dr. Ansolabehere didn't use the word
22 "large." That was your editorialization. Correct?

23 A. I would have to look back at his actual
24 statement.

25 MR. FREEMAN: If we could go off the

1 record for just one second.

2 (Discussion off the record.)

3 Q. (BY MR. FREEMAN) Back on the record.

4 Take a look at that article. Would
5 you agree that Dr. Ansolabehere didn't use the word
6 "large" to describe the number of actual dead
7 voters?

8 A. I can't view the entire document here, so
9 I don't recall specifically if there's other
10 mentions. In the snippet that you're using, he uses
11 the word "a number."

12 Q. And actual dead voters, that's within
13 quotes of Paragraph 44 of your report, but the rest
14 is not. Correct?

15 A. And that looks like it should have just
16 been actual dead, in quotes. So a typo there.

17 Q. And in the same report, Dr. Ansolabehere
18 states, As an alternative to there being dead
19 numbers on the rolls, maybe doing a good job at
20 identifying and purging deceased voters. Is that
21 correct?

22 A. I'd like to see the claim that you're
23 referring to.

24 Q. It is directly in front of you, sir.

25 A. Do you have an idea what page number to

1 look at?

2 Q. I believe it is on the page that is
3 currently on the screen.

4 A. I can't get it to move.

5 Q. It is the paragraph that is currently on
6 the screen directly in front of you.

7 A. Well, now you've got a box that popped up
8 in the front here.

9 Q. I will hold it so that you don't change
10 anything on the screen.

11 Would you agree that it says, as an
12 alternative, that the states may be doing a good job
13 at identifying and purging deceased voters?

14 MR. KEISTER: Counsel, please give
15 him time to review the article.

16 A. My interest was in refreshing my memory
17 about the article. There may be other places where
18 there's a discussion.

19 I can't get to the bottom. Your page
20 down doesn't -- or page -- oh, down. There we go.

21 So is your question just about that
22 paragraph that you're showing me?

23 Q. (BY MR. FREEMAN) My question is just
24 about that paragraph.

25 A. So which paragraph was that? I've been

1 looking through here. What page are we on?

2 Q. (Indicating.)

3 A. So you've identified a partial paragraph
4 here. And I haven't had the time to review the
5 entire document to refresh my memory on anything
6 else they might say. Your hand is wavering.

7 I think you're asking about the
8 sentence here that says, "This might be attributable
9 to states doing a good job at identifying and
10 purging deceased voters, or it may be that the
11 Catalist deceased flag does not capture a number of
12 actual dead registrants."

13 Q. And Dr. Ansolabehere does not definitively
14 state, one way or the other, whether it's states
15 doing good jobs or whether it's that Catalist is
16 capturing deceased individuals who are still on the
17 voter rolls. Is that correct?

18 A. This particular sentence leaves open both
19 possibilities.

20 Q. And you didn't list the second possibility
21 in your report, did you? The possibility that the
22 states are doing a good job?

23 A. A good job referring to the overall rate
24 of deceased voters being lower than expected, given
25 what we know about mortality rates. So he's

1 identifying a problem in this data and speculating
2 as to multiple causes.

3 I believe what I said is that
4 Catalist may not be able to identify a large number
5 of actual dead voters, which is -- you object to the
6 use of the word "large." We can omit that. A
7 number of actual dead voters, which is accurate.

8 Q. And you did not state in your report that
9 it's a possibility other states are doing a good job
10 of identifying and purging deceased voters.
11 Correct?

12 A. I don't believe that's a quote in my
13 report.

14 Q. Do you know how often the office of the
15 Texas Secretary of State receives information from
16 the Texas Department of Public Safety on individuals
17 convicted of felonies?

18 A. I do not.

19 Q. Do you know if the office of the Texas
20 Secretary of State matches its voter rolls to that
21 list, to a list of individuals who have been
22 convicted of felonies?

23 A. At this point in time, I don't have
24 firsthand knowledge of that.

25 Q. Do you know if the office of the Secretary

1 of State removes individuals from its voter rolls
2 due to ineligibility for conviction of a felony?

3 A. Off the top of my head, I can't tell.

4 Q. Would you agree that your report does not
5 discuss any of the means by which the office of the
6 Texas Secretary of State removes deadwood from the
7 Texas voter rolls?

8 A. I don't recall specifically citing any of
9 those means.

10 Q. Let's go to Paragraph 25 of your report.
11 You estimate in Paragraph 25 of your report that up
12 to 24 percent of the team database may be deadwood.
13 Correct?

14 A. I believe Paragraph 25 starts, "For the
15 sake of illustrating the potential magnitude of
16 deadwood in State voter rolls," et cetera. So I
17 wouldn't describe it as an estimate. It is an
18 illustration.

19 Q. An illustration --

20 A. About potential magnitude.

21 Q. You estimate that the potential magnitude
22 of deadwood in the team database is up to 24
23 percent?

24 A. I believe the context here gives other
25 concerns that may raise that number. And so this

1 was just for the sake of illustration, using one
2 particular source of error.

3 Q. And so is your actual opinion that the
4 quantity of deadwood is more than 24 percent or
5 somewhere between zero and 24 percent?

6 A. Again, in the discussion here which
7 continues, what I'm identifying are potential
8 sources of problems. I have not estimated a
9 specific number of deadwood.

10 Q. In fact, in Paragraph 25 of your report,
11 you state, "Combining these overreporting
12 percentages in the study cited above, that implies
13 that about 24 percent of registered voters in Texas
14 may be deadwood." Is that correct?

15 A. And it's in the context of this
16 illustrative point using only that particular
17 criticism. The report goes on to mention a number
18 of other potential sources of problems.

19 Q. So then it may be more than 24 percent.
20 Is that what you're saying?

21 A. Could be more than 24 percent.

22 Q. Okay. Does your report estimate the share
23 of deadwood that is on the no-match list versus not
24 on the no-match list?

25 A. Is there a specific section of the report

1 that you're referring to?

2 Q. I'm asking about the entirety of the
3 report.

4 A. Well, then, I have to -- it's late in the
5 day and we've been at this a long time. I have to
6 think about...

7 MR. FREEMAN: Then let's go off the
8 record.

9 MR. KEISTER: Do you want to take a
10 break?

11 THE WITNESS: I need to hear the
12 question again.

13 Q. (BY MR. FREEMAN) Does your report
14 estimate the share of deadwood that is on the
15 no-match list versus not on the no-match list?

16 A. I don't recall making such an estimate.

17 Q. Does your report estimate the share of the
18 deadwood by race?

19 A. No. I don't believe I make such an
20 estimate.

21 Q. Let's very quickly walk through how you
22 arrive at that 24 percent estimate.

23 First, am I correct that you looked
24 at an estimate by Professor Michael McDonald
25 comparing actual registration figures with

1 self-reported registration percentages? Am I right?

2 A. Are we talking about the illustrative
3 potential magnitude example?

4 Q. Yes.

5 A. And so what is your question?

6 Q. The first step that you took to arrive at
7 that 24 percent figure was to look at an estimate by
8 Professor Michael McDonald, comparing actual
9 registration percentages with self-reported
10 registration percentages. Am I right?

11 A. Well, I'd have to refresh my recollection
12 on the development of this.

13 I believe that's correct.

14 Q. And was Professor McDonald's study
15 nationwide?

16 A. You know, I'd have to look back at it to
17 verify. It's been a while since I've looked at that
18 one.

19 Q. Sitting here today, you don't know whether
20 the study was nationwide or limited to Texas?

21 A. I don't believe it was limited to Texas.

22 Q. What is your basis to apply this figure to
23 Texas?

24 A. Is it being applied to Texas?

25 Q. You're applying this figure to the -- an

1 estimate of the amount of deadwood on Texas's voter
2 rolls. Correct?

3 A. I wouldn't characterize it as an estimate.
4 I'd characterize it as I have characterized it: for
5 the sake of illustrating potential magnitude of
6 deadwood in State voter rolls. It's just a simple
7 illustrative point to demonstrate that these are
8 nontrivial problems potentially.

9 Q. So this illustration is not an estimate of
10 the amount of deadwood that's on Texas's voter
11 rolls. Is that correct?

12 A. It's clearly not an attempt to estimate
13 the amount of deadwood on Texas voter rolls, but
14 rather to illustrate the potential magnitude of the
15 problem that comes about from these kinds of issues.

16 Q. That's fine.

17 Would you agree that Professor
18 McDonald's figure is derived from a survey?

19 A. So I'm not recalling the specific details
20 of the study. From the description here, there's a
21 reference to the current population survey, yes.

22 Q. Do you present a margin of error for that
23 survey figure?

24 A. For which survey figure?

25 Q. The figure that you rely upon in your

1 report.

2 A. I don't have a margin of error written for
3 the 72.9 percent of CVAP.

4 Q. And why not?

5 A. Because it's not relevant for the
6 illustrative exercise that I'm conducting.

7 Q. The second step in arriving at your
8 illustrative percentage is to look at an estimate by
9 Bernstein, et al., that compared self-reported
10 turnout in Texas to actual turnout. Am I correct?

11 A. I'm not quite sure that you're
12 representing that accurately.

13 Q. How would you represent it?

14 A. As I've written it here. So this is
15 overreporting of registration in the CPS, combined
16 with overreporting of voter turnout.

17 Q. So you find that a study by Bernstein, et
18 al., found that self-reported turnout in the CPS
19 exceeds actual turnout in Texas by more than 14
20 percentage points. Correct?

21 A. I believe that that's cited above, yes.

22 Q. And you simply assume that a similar rate
23 of overreporting applies to voter registration
24 rather than turnout. Correct?

25 A. For the sake of illustrating potential the

1 magnitude, yes.

2 Q. Is there any data on which to base the
3 assumption that you make that the rate of
4 overreporting of turnout is approximately the same
5 as the rate of overreporting of registration?

6 A. Not that I've cited in my report.

7 Q. Do you know the share of the Texas voter
8 registration database that consists of voters in
9 suspense status?

10 A. Not off the top of my head.

11 Q. Do you agree that analyzing only active
12 voters, without suspense voters, would take into
13 account some of the deadwood issues that you
14 identify?

15 A. Some of the issues identified. Not all of
16 the issues identified.

17 Q. And would you agree that Dr. Ansolabehere
18 analyzed whether a disparity in SB 14 ID possession
19 exists between racial groups in the universe of
20 active voters only?

21 A. Are you referring to a specific table in
22 the Ansolabehere report?

23 Q. Did you read Dr. Ansolabehere's report?

24 A. Oh, there's a whole bunch of tables. And
25 then they have As and Bs and 1s, so that's --

1 Q. Do you recall whether Dr. Ansolabehere
2 analyzed whether there's a racial disparity in ID
3 possession within the universe of active voters
4 only?

5 A. There are a number of different
6 permutations. It's possible he looked at that one.
7 I would have to -- to be sure, look back at the
8 tables in Ansolabehere's report.

9 Q. So sitting here today, you are not
10 sufficiently familiar with Dr. Ansolabehere's report
11 in order to be able to opine on precisely what
12 universes of voters he examined in order to validate
13 whether or not an ID disparity persists between
14 racial groups?

15 MR. KEISTER: Objection; form.
16 Argumentative.

17 A. As I've stated, it's late in the day.
18 There are many expert reports and many tables in the
19 Ansolabehere report. You're asking about a specific
20 result, refusing to show me the relevant table that
21 you're referring to. I'm not completely confident.
22 There are many permutations that he looks at.

23 Q. (BY MR. FREEMAN) I intended to show it to
24 you and here it is.

25 MR. FREEMAN: If we can mark this as

1 Exhibit 13.

2 (Exhibit Number 13 marked.)

3 Q. (BY MR. FREEMAN) There you are. If you
4 could take a look.

5 A. Could you refresh my memory on what
6 exactly you were asking about?

7 Q. Active voters only.

8 A. So you want to see match with no suspense
9 voters?

10 Q. Does the racial disparity persist in the
11 universe of active voters only?

12 A. According to his finding?

13 Q. Yes.

14 MR. KEISTER: Do you want to take a
15 break?

16 (Recess.)

17 Q. (BY MR. FREEMAN) Would you agree that
18 analyzing only active voters, without suspense
19 voters, a disparity in ID -- SB 14 ID possession
20 persisted between racial groups in that universe?

21 A. I believe you're referring to the
22 specification on page 99 in Table 7.1.B --

23 Q. I'll take your word for it.

24 A. -- Column 2?

25 Q. Yes.

1 A. And Ansolabehere reports finding a
2 disparity across racial categories for that column.

3 Q. And excluding suspense voters, as well as
4 Catalist flagged records and individuals who are
5 matched to expired IDs, the racial disparity in ID
6 possession still persists. Is that correct?

7 A. Ansolabehere reports finding a racial
8 disparity in Column 4 of Table 7.1.B.

9 Q. Thank you. Before we move on, previously
10 you had asked at the beginning of my portion of the
11 deposition to see copies of the particular
12 declarations before you were able to let me know if
13 you had read the entirety of each report. I now
14 have gathered those together and so I'd just like to
15 go through that very quickly.

16 First, the declaration of Steve
17 Ansolabehere. That is the revised declaration you
18 have there. But the initial report, did you read
19 the entirety of that report, including all
20 appendices, prior to -- prior to submitting your
21 declaration in this case?

22 A. Certainly not many of the appendicis.

23 Q. Would you say that you read 50 percent of
24 the report, including appendices?

25 A. I couldn't tell you offhand.

1 Q. Approximately how many hours did you spend
2 reviewing just that report?

3 A. I can't really tell you off the top of my
4 head.

5 Q. Four hours?

6 A. I still can't tell you off the top of my
7 head.

8 Q. More than four hours?

9 A. It's not something I kept track of for
10 particular reports, how much time. So...

11 Q. And with regard to the declaration of
12 Dr. Barry Burden, did you read the entirety of
13 Dr. Burden's report, including all appendices?

14 A. Again, not including all of the
15 appendices.

16 Q. Did you read the entirety of the report,
17 excluding appendices?

18 A. I believe so.

19 Q. Did you read the entirety of
20 Dr. Ansolabehere's report, but excluding the
21 appendices?

22 A. Are the tables in the appendices?

23 Q. I believe some are and some are not.

24 A. I can't say that I've read every single
25 word of every single table, but I believe I've read

1 through the entire report.

2 Q. So you've read the report, but not all the
3 tables. Is that correct?

4 A. What I said was not every word in every
5 single table. Some of them are more relevant to my
6 reactions and some of them less relevant.

7 Q. And how did you determine what was less
8 relevant without reading it?

9 A. I didn't say I didn't read it at all. I
10 said I didn't read every word in every table. Some
11 of the tables have many words. Some of them are
12 very tiny at the bottom.

13 Q. Okay. Did you read the entirety of the
14 declaration of Professor Chandler Davidson?

15 A. Not including the appendices.

16 Q. Excluding Professor Davidson's curriculum
17 vitae, did you read the entirety of Dr. Davidson's
18 report?

19 A. I believe I did.

20 Q. Did you read the entirety of the
21 declaration of Dr. Gerald Webster?

22 A. I believe I have looked through the
23 entirety of this report. There's a lot of end
24 notes -- sorry. I believe I've looked through the
25 entirety of this report.

1 Q. What do you mean by "looked through"?

2 A. I believe my eyes have been on every page.

3 Q. Have your eyes crossed every word?

4 A. Well, there's these busy diagrams here,
5 and I can't say that I have examined them with great
6 detail in terms of all the little shaded areas, so
7 that would be the main concern I have about
8 answering your question about having read the entire
9 document.

10 Q. Have you read all of the words and merely
11 glanced at the maps, or no?

12 A. For this particular report, I'm less
13 confident that I've read every single word on every
14 single page.

15 Q. Okay. So you're not able to testify
16 today, under oath, that you read every word of every
17 page, is that correct, on Dr. Webster's report?

18 MR. KEISTER: Objection; asked and
19 answered.

20 A. I think that's what I just said.

21 Q. (BY MR. FREEMAN) Okay. With regard to
22 the declaration of Mr. Yair Ghitza, have you read
23 the entirety of that declaration, prior to producing
24 your first report?

25 A. I believe I did, yes.

1 Q. And with regard to the declaration of
2 Dr. Jane Henrici, did you read the entirety of that
3 declaration prior to producing your report,
4 excluding the CV?

5 A. I believe I did read this report.

6 Q. Thank you. Let's turn to Paragraph 98 of
7 your report. At the end of Paragraph 98, you write
8 that, "Minorities may be more likely to move without
9 submitting a formal change of address to the post
10 office." Correct?

11 A. That looks like a quote from the text.

12 Q. Does your report contain any data or
13 method to support this point?

14 A. I believe it says, "For example."

15 Q. Would you agree that this is speculation?

16 A. It says, "For example, it may happen."

17 Q. Would you agree that this is speculation?

18 A. And the reason this example is here is to
19 point out other concerns that may be problematic in
20 these analyses.

21 Q. Is this a concern that has no basis in
22 data or methodology?

23 A. No, I wouldn't say that.

24 Q. What is your data or methodology on which
25 you base the concern that minorities may be more

1 likely to move without submitting a formal change of
2 address to the post office?

3 A. Oh, that wasn't what you just asked. You
4 asked if it has no basis. The basis would be, I
5 believe, Professor Ansolabehere has identified that
6 not everyone who moves submits a change of address,
7 and so that this is a concern in database-matching
8 technologies.

9 Q. Would you -- do you provide any basis for
10 your example that minorities may be more likely to
11 move without submitting a formal change of address?

12 A. I believe it's in the context of an
13 if/then statement.

14 Q. So there's no actual basis for you to
15 opine that they may be more likely -- minorities may
16 be more likely to move without submitting a formal
17 change of address. Correct? That's just a
18 possibility?

19 A. It is a possibility.

20 Q. Does your report attempt to estimate the
21 effect of any racial disparity in post office
22 notification on the estimates of disparities in ID
23 possession provided by Dr. Ansolabehere?

24 A. I do not.

25 Q. Do you assess whether Dr. Ansolabehere's

1 matching algorithm is capable of linking records
2 even when address elements do not match?

3 A. I have not assessed that.

4 Q. If you could turn to page 25 of
5 Dr. Ansolabehere's report, which is Exhibit 13.

6 Would you agree that several matching
7 combinations contained in table 5.1 on page 25 do
8 not include any address element?

9 A. Are you considering a zip an address?

10 Q. Sure.

11 A. There are some, yes.

12 Q. So would you agree that even if an
13 individual does not report a move within Texas,
14 Dr. Ansolabehere's algorithm is capable of matching
15 a voter registration record to a form of ID obtained
16 at a prior address?

17 A. I don't believe the claim is that no one
18 who moves can be matched but, rather, people who
19 move might be missed.

20 Q. But if there are methods to capture people
21 who move by matching them without an address
22 element, is the fact that they have moved any basis
23 to believe that they would not be matched?

24 A. I believe there's evidence of that in
25 comparing the results from the Catalist data to the

1 original no-match list, that there's additional
2 identifications -- or additional observations that
3 are flagged in the Catalist data. But I would have
4 to spend more time with the report to review that
5 specifically.

6 Q. Are you thinking of individuals who are
7 simply removed from the analysis because there's an
8 NCOA flag on their record?

9 A. That's my -- what I'm referring to in the
10 Catalist data.

11 Q. Removing individuals from the universe of
12 matches -- excuse me, from the universe of
13 registered voters because they have an NCOA flag
14 does not indicate that those individuals should or
15 should not have been successfully matched, does it?

16 A. No. It suggests that since we're getting
17 differences in data, that not everyone who has moved
18 has been captured.

19 Perhaps I'm not understanding your
20 question.

21 Q. Do you have any opinion to that effect in
22 your report?

23 A. I believe the only relevant reference
24 would be to Ansolabehere's discussion that not
25 everyone who moves is going to be captured in the

1 database-matching technologies.

2 Q. Where in Dr. Ansolabehere's report does he
3 state that the individuals who are -- who have NCOA
4 flags are necessarily false no-matches as opposed to
5 people who may or may not have moved out of Texas?

6 A. What are you asking? Where in his report
7 have the --

8 Q. I'm trying to understand what you're
9 opining on about NCOA --

10 A. To tell you the truth, I've gotten lost in
11 the questions here, so I'm not quite sure, as I've
12 said, that I understand your question.

13 Q. Okay. Would you agree that even if an
14 individual does not report a move within Texas,
15 Dr. Ansolabehere's algorithm is capable of matching
16 a voter registration record to a form of ID obtained
17 at a prior address?

18 A. There could be a match.

19 Q. Let's go to Paragraph 104 of your report.
20 You state that the number of non-matches for reasons
21 other than a voter that lacks requisite ID may be
22 correlated with minority race or Hispanic ethnicity.
23 Correct?

24 A. There's a -- that's a partial phrasing of
25 a statement here.

1 Q. Do you have any basis to believe that
2 there's a correlation between individuals who are
3 false no-matches and race?

4 A. No. It's being mentioned as a
5 possibility.

6 Q. Okay. Does your report provide any other
7 examples of potential racial biases in
8 Dr. Ansolabehere's analysis that could eliminate
9 racial disparities that Dr. Ansolabehere observes?

10 A. Yes.

11 Q. And what are those?

12 A. Well, I believe there are a number of
13 things cited in the report. In particular is the
14 concern that the actual estimates, even in what I
15 refer to as the hidden finding, which is now --
16 seems to be Table 7.1.B, that even these figures,
17 there's reason to believe that they're inflated.

18 In addition, in the report I raise a
19 specific concern about the Catalist categorization
20 by race and ethnicity.

21 Q. My question -- let me just stop you there
22 because you're answering a different question from
23 what I intended to ask, which may have been that my
24 question was unclear.

25 My question is, are there any other

1 examples in Dr. Ansolabehere's methodology, his
2 matching methodology, that could bias the potential
3 results? Not -- not increase the -- not
4 artificially increase the gross number of
5 non-matches, but bias the results on account of
6 race, that you identify in your report?

7 A. Oh, well, if the false non-matches are
8 correlated with race or ethnicity, then that would
9 lead to that potential.

10 Q. Are there any bases that you articulate in
11 your report, other than what we've already
12 discussed, on which you could claim that the false
13 non-matches are correlated with race, or is that
14 just a possibility?

15 A. I believe it's raised as a possibility in
16 my report.

17 Q. You state in your report that much
18 scholarly research eschews measures of turnout as a
19 percentage of registered voters. Correct? Do you
20 recall writing that?

21 A. I recall the word "eschew." Can you point
22 to the paragraph?

23 Q. Do you recall -- given that you remember
24 "eschew," do you remember opining that scholarly
25 research eschews turnout as a percentage of

1 registered voters?

2 A. I'd like to see the context if you're
3 referring to a specific statement in the report.

4 Q. Paragraph 22. Would you agree that that's
5 a statement within your opinion, within your report?

6 A. I don't recall verbatim what you said, but
7 I see a sentence here that includes eschew.

8 Q. Would you agree that you opined, "It is
9 for this reason that much of the scholarly research
10 on voter turnout in the United States eschews
11 measures of turnout as a percentage of registered
12 voters." Correct?

13 A. And the sentence keeps going.

14 Q. Yes.

15 A. So you've read a verbatim snippet of a
16 sentence.

17 Q. Would you agree that some political
18 scientists have used turnout as a percentage of
19 registered voters in peer-reviewed publications?

20 A. Yes.

21 Q. Would you agree that it is an accepted
22 measure of voter turnout in the discipline of
23 political science?

24 A. It depends on the context.

25 Q. Are you familiar with the work of

1 Professor Darren Shaw?

2 A. I know Professor Darren Shaw.

3 Q. Would you agree that his work in
4 peer-reviewed journals is generally within the
5 accepted practice of political science?

6 A. If they are in peer-reviewed journals,
7 then it would be tautological, I think, to say that
8 it's whatever it was you said.

9 Q. Within the accepted practice of political
10 science?

11 A. Well, you know, here is the thing.
12 Different people will raise different criticisms,
13 and just because a study is published doesn't mean
14 it can't be criticized. So I'm not quite sure what
15 you mean by within the accepted whatever it was that
16 you said.

17 Q. Is it your understanding that the work of
18 Darren Shaw, Professor Darren Shaw, is generally
19 within the accepted practice of political science?

20 A. He has many publications.

21 Q. So you would say some are not?

22 A. I didn't say that. I haven't examined his
23 record in detail.

24 Q. Are you familiar with his 2000 article,
25 "Examining Latino Turnout in 1996," in the American

1 Journal of Political Science?

2 A. Off the top of my head -- we've been
3 mentioning many studies. I'm not immediately
4 familiar with that.

5 Q. Are you familiar with his 2004 article,
6 "Registrants, Voters, and Turnout Variability Across
7 Neighborhoods" in Political Behavior?

8 A. Same thing, off the top of my head.

9 Q. Do you know if Professor Shaw measured
10 turnout as a percentage of registration in either of
11 those articles?

12 A. I believe I recall seeing a claim in a
13 supplemental report that he did.

14 Q. And are you familiar with the work of
15 Dr. Trey Hood?

16 A. I have some familiarity.

17 Q. And are you aware of whether he has used
18 registered voters as a denominator in measuring
19 turnout?

20 A. I would have to look at specific papers to
21 refresh my memory.

22 Q. I'd like you next to turn to Paragraph 36
23 of your report.

24 You state in Paragraph 36 that, After
25 Dr. Ansolabehere arrived at his no-match figures,

1 he, quote, also makes greater effort to remove
2 various non-matches that do not represent real and
3 legally registered voters who lack necessary
4 identification under SB 14. Correct?

5 A. I believe that's what's stated there.
6 Yes.

7 Q. To your knowledge, does a racial disparity
8 exist in SB 14 possession in that pool of voters
9 using both ecological regression estimates and
10 Catalist estimates?

11 A. In which pool? There are many pools that
12 he examines.

13 Q. The pool that you're referring to in
14 Paragraph 36 of your report.

15 A. So this would have to go back to his --

16 Q. 7 --

17 A. -- original report. Can I take a look at
18 that?

19 Q. Well, is his original report his current
20 estimate?

21 A. Well, that's not what you asked. You
22 asked about what I was citing here.

23 Q. I'm asking about -- but to the extent that
24 your methodological concerns apply across both
25 reports, I'm asking about his current estimate after

1 he received over 3 million additional records from
2 DPS. So if you could take a look at 7.1.A and
3 7.1.B.

4 A. Okay. What was the question? I have the
5 tables in front of me.

6 Q. Does a racial disparity persist in SB 14
7 ID possession in the pool of voters that you are
8 referring to?

9 A. He reports a racial disparity.

10 Q. And that's using both ecological
11 regression estimates and Catalist estimates.
12 Correct?

13 A. That's correct.

14 Q. And that figure excludes individuals on
15 the suspense list. Correct?

16 A. Which figure?

17 Q. The figure -- the last column in 7.1.A and
18 7.1.B.

19 A. So I think you're referring to, in
20 Table 7.1.B, 327,132? That column?

21 Q. Yes.

22 A. That's what the label on the column
23 indicates, yes.

24 Q. Are individuals on the suspense list
25 legally registered to vote?

1 A. I would have to look back at the
2 definition of a suspense list.

3 Q. So you're not aware of whether individuals
4 on the suspense list are legally eligible to vote?

5 A. It's a particular vocabulary that I would
6 want to go back and refresh my recollection.

7 Q. So as we sit here right now, you can't
8 recall. Is that correct?

9 A. I -- off the top of my head at this late
10 date in the afternoon, I would want to go back and
11 review the definition of the term.

12 Q. And this figure excludes individuals who
13 are matched to expired ID. Correct? The last
14 column in 7.1.A and 7.1. --

15 A. I'm sorry, excludes, is that what you
16 said?

17 Q. Yes. Excludes individuals who are matched
18 to identification that has expired. Correct?

19 A. That's what it says here, yes.

20 Q. Those individuals may be individuals who
21 are legally registered to vote and don't possess
22 unexpired ID; they simply possess expired ID.
23 Correct?

24 A. They may be registered to vote and possess
25 expired ID?

1 Q. Yes.

2 A. I believe that's correct.

3 Q. They may not be deadwood. Correct?

4 A. What do you mean by "deadwood"?

5 Q. It's a term that you use in your report
6 and you defined earlier. Individuals, I believe,
7 who are on the registration list, but should not be
8 for some reason. These people may, in fact, not be
9 deadwood. Correct?

10 A. Well, I'd want to look at the date of the
11 expiration, but I believe that's correct. They may
12 not be deadwood.

13 Q. This figure also excludes individuals who
14 are matched to NCOA flags. Correct?

15 A. That's not clear from the table. I'd have
16 to go back to the text to verify, but I believe so.

17 Q. And NCOA flags can indicate a move that is
18 within a single state. Correct?

19 A. I believe so.

20 Q. Do you know, are most moves intrastate?

21 A. I would have to look that up.

22 Q. And those individuals may still be legally
23 registered to vote if they move within the state.
24 Correct?

25 A. I don't know if particular individuals are

1 or are not.

2 Q. Do you know if an individual who moves
3 within a single county is legally required to
4 reregister to vote?

5 A. I would have to look up the relevant law
6 in Texas.

7 Q. So the individuals who have NCOA flags may
8 be real voters who reside in Texas, but don't
9 possess SB 14 ID. Correct?

10 A. I believe that is true.

11 Q. Are individuals who have a certain level
12 of disability exempt from SB 14's requirements, or
13 are they merely eligible to apply for an exemption?

14 A. I would have to review the details of the
15 law to answer with certainty.

16 Q. Are individuals over the age of 65
17 required to show SB 14 ID in order to vote in person
18 at a polling place?

19 A. My understanding is that in order to vote
20 in person, they would.

21 Q. Turn to Paragraph 43 of your report,
22 please.

23 What is your basis to assert that the
24 denominator for any of Dr. Ansolabehere's
25 calculations excludes individuals who qualify for a

1 disability exemption?

2 A. We're referring back to his original
3 report?

4 Q. Well, again, you've asserted that his
5 methodological -- your methodological concerns
6 persist across reports. So my question is: At any
7 time, in fact, does Dr. Ansolabehere exclude
8 individuals who qualify for a disability exemption
9 from the denominator of his calculations?

10 A. I believe that you've overstated what I
11 claimed. This is his supplemental report that I
12 haven't had the same amount of time to examine in
13 detail. So I can go off my speculation of what may
14 or may not have changed in that particular table.
15 But what's described in the report here is referring
16 back to the table in the original report.

17 Q. And you believe that the denominator
18 excludes voters who are registered but not required
19 to present SB 14 ID. Is that correct?

20 A. That's my understanding from the original
21 report.

22 Q. Are you certain that that's accurate?

23 A. As I said, that's my understanding from
24 the original report. I can go back and check it.

25 Q. When did you receive Dr. Ansolabehere's

1 supplemental report?

2 A. I don't know exactly.

3 Q. Sometime around the 15th?

4 A. It's been a busy last few weeks. I really
5 don't know exactly.

6 Q. And you haven't had the time to review
7 Dr. Ansolabehere's supplemental report thoroughly
8 enough to be able to determine if your
9 methodological critiques persist from the corrected
10 report to the current report? Is that your
11 testimony?

12 A. No. I believe what I've said is that many
13 of my methodological concerns would still apply to
14 the methods used.

15 Q. But you're not certain if all of them do?

16 A. I would need to spend more time on the
17 supplemental report in order to form an opinion on
18 the supplemental report.

19 Q. Okay. Which -- please turn to
20 Paragraph 40 of your report.

21 Given the State of Texas's failure to
22 provide Dr. Ansolabehere with its complete DPS
23 database initially, do you continue to believe that
24 it was irresponsible and misleading for
25 Dr. Ansolabehere to provide the estimate that he set

1 forth in his initial and corrected report?

2 A. I continue to believe that the methods and
3 lack of being forthcoming about the weakness of the
4 methods is particularly irresponsible and
5 misleading.

6 Q. Do you continue to believe that the number
7 that he reports in his reply report is irresponsible
8 and misleading?

9 A. I don't believe that that's what I said.
10 That the number was irresponsible.

11 Q. And you say in Paragraph 40, It is
12 particularly irresponsible and misleading for
13 Ansolabehere to report as a finding that over
14 1 million voters in Texas do not possess acceptable
15 ID under SB 14.

16 A. That's correct.

17 Q. That's saying that reporting the number is
18 irresponsible and misleading, is it not?

19 A. No. I think it's what it says it is, to
20 report, as a finding, that number, which gets to
21 the --

22 Q. And you believe that the current report
23 that incorporates the 3 million additional records
24 that were not provided to Dr. Ansolabehere, is
25 irresponsible and misleading to the extent that it

1 reports as a finding the top line number that it
2 reports?

3 A. Which top line number are you referring
4 to? We've looked at a number of tables.

5 Q. The top line number is the no-match
6 number. That's what I mean.

7 A. And to the extent -- and this is based on
8 my understanding of the similarity of the methods
9 used, that my criticisms still apply. And so, yes,
10 absolutely.

11 Q. Okay. In your expert reports do you
12 attempt to estimate the quantitative effect of your
13 criticisms of Dr. Ansolabehere's analysis on the
14 disparities that he observes and ID possession rates
15 between Anglos and Hispanics and between Anglos and
16 blacks?

17 A. I have not worked with the actual data, so
18 no.

19 Q. Would it be fair to say, then, that you
20 don't present your own best estimate of the rates of
21 SB 14 ID possession among Anglos, Hispanics, and
22 blacks in Texas?

23 A. I do not present original estimates.

24 MR. FREEMAN: Let's mark this as
25 Exhibit --

1 A. And actually, I'm forgetting your
2 question. We're referring to Ansolabehere's number.
3 We could do that replication analysis. So I'm not
4 recalling what your question was and I may want to
5 amend my answer.

6 Q. (BY MR. FREEMAN) Do you provide your own
7 best estimate of the rates of SB 14 ID possession
8 among Anglos, Hispanics, and blacks in Texas?

9 A. I would not characterize it as that, no.
10 (Exhibit Number 14 marked.)

11 MR. FREEMAN: Mark this as
12 Exhibit 14.

13 Q. (BY MR. FREEMAN) what is this document?

14 A. This looks to be a report that I did with
15 Professor Marvin Overby in 2006.

16 Q. And that was in litigation concerning
17 Missouri voter ID law. Correct?

18 A. Yes, it was.

19 Q. If you turn to page 2, Paragraph 6-A, am I
20 right that this report represents the best estimate
21 that you were able to make concerning the number of
22 individuals who were likely to desire a photo ID
23 following implementation in Missouri's voter ID law?

24 A. Page -- I think there's multiple page 2s
25 here.

1 Q. Second page of the document,
2 Paragraph 6-A. Am I right that this report
3 represents the best estimate that you were able to
4 make concerning the number of individuals who were
5 likely to desire a photo ID following implementation
6 of Missouri's voter ID law?

7 A. What we report here is our best estimate
8 of the number of eligible Missouri voters,
9 et cetera.

10 Q. And so you swore, under oath, that each
11 analytical step that you took was, in your opinion,
12 a valid determination based on your knowledge as a
13 social scientist. Correct?

14 A. I don't think that's what it says. It
15 says our best estimate and has a summary of the
16 report that we've provided.

17 Q. Would you agree that your best estimate
18 constitutes a valid determination based on your
19 knowledge as a social scientist?

20 A. I would have to refresh my memory about
21 the actual estimate. This is from eight years ago.

22 At the time and given the information
23 we had, it was intended to be an improved estimate.
24 I think we provided a variety of estimates, and then
25 among those, identify the best, conditional on that

1 set.

2 Q. In fact, you described it as your best
3 estimate. Correct?

4 A. I believe it's described as our best
5 estimate, which is in the context of providing
6 several estimates and choosing the preferred
7 estimate among those.

8 Q. And you determined that only 6,000
9 individuals were likely to desire a photo ID for
10 voting purposes under the Missouri voter ID law.
11 Correct?

12 A. This says, Of these, about 6,000 are
13 likely to desire a photo ID for the purpose of
14 voting based upon historic voter participation
15 patterns, yes.

16 Q. Let's work our way quickly, I hope,
17 through the methodology starting on page 3 of the
18 report itself, not the declaration that begins it.

19 You started by estimating the voting
20 age population of Missouri in July 2006. Correct?
21 Middle paragraph.

22 A. Well, it's been many years since I've seen
23 this document, so I'm going to need to take some
24 time to refresh my memory as we go along here.

25 Q. Do you want to take a break so that you

1 can do that?

2 A. I can do it as we go along.

3 Q. Okay, that's fine.

4 So you start by estimating the VAP of
5 Missouri in July 2006. Correct?

6 A. What paragraph are you referring to?

7 Q. Middle paragraph of page 3.

8 A. "As an alternative," that paragraph?

9 Q. "On August 4th, 2006," that paragraph.

10 MR. POSNER: Dan?

11 MR. FREEMAN: Yes.

12 MR. POSNER: Excuse me, Counsel, why
13 don't we take a break, let the witness --

14 MR. FREEMAN: Let's take a break.

15 (Recess.)

16 Q. (BY MR. FREEMAN) I am going to skip ahead
17 to try to get this puppy moving. If you can move to
18 page 4 of the Missouri report.

19 Am I correct that you, within the
20 universe of individuals who lack ID, try to
21 determine the number of such individuals who would
22 actually need to acquire ID based on turnout
23 figures. Correct?

24 A. There's multiple steps here.

25 Q. Uh-huh.

1 A. And so part of the analysis involves
2 thinking about who would desire a photo ID in order
3 to vote.

4 So in that sense, turnout figures are
5 employed to get an estimate of that.

6 Q. However, in the next paragraph you state
7 that, "This population of individuals who lack ID is
8 typically assumed to be poor, less educated, and
9 disproportionally composed of racial and ethnic
10 minorities." Correct?

11 A. That's what's written there.

12 Q. And you, therefore, discount the number of
13 individuals believed not to have ID by a lower
14 turnout rate because you believe that this group
15 will exhibit a lower turnout rate. Correct?

16 A. No. I believe it's referring to lowest
17 quintile of family income, persons without high
18 school education, exhibiting lower turnout rate.

19 Q. And you state that you're focusing on this
20 group because the population of individuals that
21 does not possess a Missouri-issued photo ID is
22 typically assumed to be poor, less educated, and
23 disproportionately composed of racial and ethnic
24 minorities. Correct?

25 A. That's a paraphrasing of what's written

1 there.

2 Q. But it's an accurate paraphrasing.

3 Correct?

4 A. Well, it's different than what's written
5 there. It says, "For this reason, we focus on the
6 lowest quintile."

7 Q. And you focus on the lowest quintile
8 because you, as a social scientist, believe that
9 individuals who do not possess a State-issued photo
10 ID are more likely to be poor, less educated, and
11 disproportionately composed of racial and ethnic
12 minorities. Correct?

13 A. What it says is, "Typically assumed."

14 Q. But you incorporated this in your best
15 estimate, did you not?

16 A. It's incorporated in the report, that's
17 correct.

18 Q. Let's move on to Mr. Ghitza's report. Am
19 I correct that the only criticisms of Mr. Ghitza's
20 data, methods, or opinions contained in your report
21 concern the effects of the accuracy rate of the
22 Catalist race estimates?

23 A. Which number is Mr. Ghitza's report?

24 Q. It's not an exhibit. I'm asking questions
25 about your report, and what your report says about

1 Mr. Ghitza and the Catalist race estimate.

2 Am I correct that the only criticisms
3 of Mr. Ghitza contained within your report concern
4 the effects of the accuracy rates of the Catalist
5 race estimates. Is that correct?

6 A. I'm trying to refresh my memory. There's
7 a lot of words in my report. So if you'll be
8 patient, I'll look through.

9 MR. FREEMAN: We can go off the
10 record while he looks through.

11 A. Is there a particular section that you're
12 referring to?

13 Q. (BY MR. FREEMAN) I'm referring to the
14 entirety of your report. I'd like to know the scope
15 of the critique that you have of Mr. Ghitza and the
16 Catalist race estimate.

17 A. So my recollection, based on the report --
18 you're asking about a criticism of Mr. Ghitza
19 specifically or Catalist --

20 Q. Or Catalist as a general matter.

21 A. I think the Catalist data is discussed in
22 a number of portions in the report.

23 Q. I'm asking about critiques of Catalist's
24 method of race estimate. Your only -- your only
25 critique that you provide is -- regards the accuracy

1 rates. Is that correct?

2 A. I'm looking for that section of the
3 report.

4 Q. I believe it's Paragraph 105 and 106.

5 A. Could be helpful.

6 So in this section of the report, I
7 mentioned Dr. Ghitza in particular. And I mentioned
8 that the records are updated frequently, and the
9 evidence about the confidence and the coding of
10 black or Hispanic versus non-Hispanic whites.

11 Q. Your report doesn't contain any criticisms
12 of the method by which Catalist estimates race.
13 Correct? Just the accuracy?

14 A. I don't believe I criticized the method by
15 which they estimate race.

16 Q. Have you ever published any work in a
17 peer-reviewed journal in which you attempted to
18 estimate the races of individuals in the absence of
19 self-reporting?

20 A. I don't recall so.

21 Q. Have you ever relied upon race estimates
22 provided by any outside company?

23 A. By a company?

24 Q. Such as Catalist or a comparable
25 organization.

1 A. In what context?

2 Q. In your work as a social scientist.

3 A. Work including what?

4 Q. All work --

5 A. Publications?

6 Q. -- period.

7 A. Not in -- I don't believe in any
8 publications.

9 Q. How about any work outside of
10 publications?

11 A. And so repeat the question.

12 Q. Have you ever relied upon racial estimates
13 provided by Catalist or a comparable organization?

14 A. So estimates of individual's race and
15 ethnicity?

16 Q. Yes.

17 A. Well, as I've mentioned, I've been a
18 participant in the CCES survey, and so Catalist has
19 provided some validated vote data in there. But I
20 don't believe their racial estimates are in that
21 data, so I think I can say no.

22 Q. But you, yourself, have relied on data
23 provided by Catalist in the work that you have done
24 as a social scientist. Correct?

25 A. Not -- I don't believe in publications, I

1 haven't used that work.

2 Q. But you have relied on it in other work
3 that you've done as a social scientist, the Catalist
4 data. Correct?

5 A. Relied as I have access to data that
6 contains some variables from Catalist.

7 Q. Okay. Have you ever used ecological
8 regression to estimate racial effects or
9 disparities?

10 A. Broadly speaking, I think we can say yes.

11 Q. And you would agree that ecological
12 regression is an accepted methodology in political
13 science to estimate patterns of race?

14 A. It is a method that is often misused in
15 terms of the interpretation of coefficients.

16 Q. But it is an accepted method when it's
17 used correctly. Correct?

18 A. Regarding the interpretation of
19 coefficients, that they're not indicative of
20 individuals but, rather, of the characteristics of
21 places.

22 Q. But ecological regression can also be used
23 to estimate the characteristics of individuals so
24 long -- as a group, so long as an individual does
25 not commit the ecological fallacy. Correct?

1 A. The ecological fallacy is the concern.
2 And so we typically see ecological regressions in
3 contexts where we don't have access to individual
4 level data.

5 Q. But so long as an individual does not
6 commit the ecological fallacy, ecological regression
7 is an accurate and accepted method in political
8 science to estimate effects or patterns by race in
9 terms of groups. Correct?

10 A. You're committing the ecological fallacy
11 and stating it that way. So that's inconsistent,
12 the way you're stating it.

13 Q. Would you accept that ecological
14 regression, as a whole, is an accepted methodology
15 in political science so long as the ecological
16 fallacy is not committed?

17 A. It is used in political science research,
18 yes.

19 Q. And your report does not assert that
20 Dr. Ansolabehere commits the ecological fallacy in
21 his use of ecological regression. Correct?

22 A. I don't believe that opinion is contained
23 in my report.

24 Q. And none of your critiques of the Catalist
25 race estimates address Dr. Ansolabehere's use of

1 ecological regression. Correct?

2 A. No, I don't believe that's correct.

3 Q. You believe that your critiques of
4 Catalist race estimates also constitute a critique
5 of his use of ecological regression?

6 A. Let me refer back to just refresh my
7 memory on one point I have in mind here.

8 No, I don't think there are critiques
9 of the Catalist data. Estimates of race are
10 similarly critiques of the ecological regression.

11 Q. And your critiques of Catalist race
12 estimates are not similarly critiques of estimates
13 using homogenous block groups. Correct?

14 A. Correct.

15 Q. And your critiques of Catalist race
16 estimates are not similarly critiques of
17 Dr. Ansolabehere's use of Texas's Spanish surname
18 voter designation to estimate racial disparities.
19 Correct?

20 A. Correct.

21 Q. And your report doesn't contain any
22 critiques of Dr. Ansolabehere's use of ecological
23 regression. Correct?

24 A. I don't believe it does, other than the
25 basic points that there's a garbage-in/garbage-out

1 problem. I don't think I used that terminology.

2 But, rather, given that there's
3 problems with the estimates of persons who lack
4 SB 14 ID and that's an input to the ecological
5 regression. So in that sense there's a criticism.

6 Q. And the same is true of the homogenous
7 block group analysis?

8 A. I believe that would be so.

9 Q. And the same as the Spanish surname voter
10 registration analysis?

11 A. I believe that's correct.

12 Q. Paragraph 106, you state that the accuracy
13 of the Catalist race estimate is expected to be
14 correlated with the lack of ID. Correct?

15 A. I believe that's what's stated here.

16 Q. What is your basis for that contention?

17 A. Well, I don't have it footnoted to a
18 specific literature, so that would be a surmise that
19 lack of ID is correlated with minority status.

20 Q. And with lack of -- sorry.

21 You mean with minority status as
22 designated by Catalist, the errors?

23 A. I believe this is a continuation of the
24 paragraph above. So it's to the extent that these
25 probabilities are even lower for individuals with

1 low SES, it follows, et cetera.

2 So --

3 Q. But you don't have any basis --

4 A. That should be -- fact is a poor choice of
5 words there, on my part. That should be continuing
6 that if/then statement.

7 Q. There's no factual basis to believe that
8 errors are correlated with lack of ID. Correct?

9 A. It's an if/then -- it should be an if/then
10 statement.

11 Q. Have you attempted to quantify the effect
12 of the accuracy of the Catalist race estimate would
13 have on racial disparities and ID possession? Did
14 you perform that analysis yourself?

15 A. Attempted to quantify --

16 Q. The effect of any lack of accuracy in the
17 Catalist race estimate would have on racial
18 disparities and ID possession?

19 A. No, I don't believe I do that in this
20 reports.

21 Q. Did you attempt to weigh observations in
22 Dr. Ansolabehere's calculations based on Catalist
23 race estimates by the probability that race or
24 ethnicity is estimated correctly?

25 A. I don't have those estimates so I did not

1 do original data analysis.

2 Q. Did you conduct an instrumental variable
3 regression to assess the accuracy of
4 Dr. Ansolabehere's calculations based on Catalist
5 race estimates?

6 A. I've not conducted any original data
7 analysis.

8 Q. So any of the concerns that you've
9 expressed regarding the effects of any lack of
10 accuracy in Catalist's race estimate, those concerns
11 are speculation, correct, of what might be?

12 A. Well, they're concerns raised by the
13 information provided in the Ghitza report about the
14 accuracy of the racial and ethnic categorizations in
15 the Catalist data.

16 Q. But whether those concerns might result in
17 the elimination of the statistical significance of
18 Dr. Ansolabehere's observations of racial
19 disparities or eliminations of the racial
20 disparities itself, that's speculation. Correct?

21 A. I have not done the analysis so I don't
22 know for sure. I believe this is a discussion of
23 concerns that should have been addressed.

24 Q. And in any other materials that you have
25 in your report that is not footnoted, those are

1 surmises. Correct?

2 MR. KEISTER: Object to form.

3 A. That seems like it would -- there's a lot
4 of sentences that aren't footnoted. So do you want
5 to go one by one?

6 Q. (BY MR. FREEMAN) No, I do not. I don't
7 think your counsel wants me to, either. And
8 probably, if you're going to make your flight
9 tomorrow, I don't think you want me to.

10 Does your report ever actually state
11 that you have determined that the racial ID
12 possession estimates Dr. Ansolabehere calculated
13 based on Catalist race estimates, are not
14 statistically significant?

15 A. I did not conduct that kind of statistical
16 analysis.

17 Q. Look at Paragraph 106. You state that the
18 error known to exist in Catalist estimates of race
19 and ethnicity is not addressed by Dr. Ansolabehere.
20 Correct?

21 A. That's what's written there.

22 Q. In fact, Dr. Ansolabehere conducted a
23 separate estimate of racial disparities and ID
24 possession based solely on individuals for whom
25 Catalist has a high confidence of its race estimate.

1 Correct?

2 A. He does report that.

3 Q. Would you agree that as a matter of basic
4 statistical theory, errors in classification between
5 two groups will reduce the observed difference
6 between those groups rather than inflate the
7 observed difference?

8 A. Not necessarily if there's multiple
9 sources of error and they're systematic, as they are
10 with the Catalist data. I believe that the
11 categorization of high confidence is an apples and
12 oranges comparison across groups, which is evidenced
13 from Dr. Ghitza's report.

14 Q. I'd like to turn to Paragraph 18.D of your
15 report.

16 A. I'm there.

17 Q. Which experts assert that SB 14 will
18 suppress voter turnout?

19 A. I would have to -- again, there's a lot of
20 experts. This is a characterization or a summary of
21 the overarching arguments that I interpreted in the
22 17 reports. So several of them speak to SB 14 as an
23 obstacle or they reference the calculations of
24 voting to support differential effects on turnout.

25 Q. Would you agree that voter turnout

1 measures the aggregate determination of individual
2 voters as to whether to participate in an election?

3 A. I think you can use the word "turnout" to
4 describe an individual's behavior as well.

5 Q. But would you agree that it also describes
6 the aggregate, that that's an accurate
7 description --

8 A. It can be used to describe aggregate votes
9 as a percent of some pool or it could be used to
10 describe whether an individual votes.

11 Q. Okay. Does voter turnout measure
12 opportunity to participate in the political process
13 or is that a separate question?

14 A. That sounds like a much broader concept
15 than voting.

16 Q. If a jurisdiction decided to fund an
17 election by charging every minority voter \$5, but
18 did not charge Anglo voters, and the minority voters
19 decided that the election was so important that they
20 paid \$5 each and showed up at the polls at the same
21 rate as the Anglo voters, would the election exhibit
22 reduced minority turnout?

23 MR. KEISTER: Object to form.

24 Q. (BY MR. FREEMAN) You may answer.

25 A. All else constant?

1 Q. Yes.

2 A. And -- I think the way you've read it,
3 it's missing something. Try again.

4 Q. Sure. I'm happy to repeat my question.
5 My question was, in fact, complete, but I will read
6 it again.

7 If a jurisdiction decided to fund an
8 election by charging every minority voter \$5, but
9 did not charge Anglo voters, but minority voters
10 decided that the election was so important that many
11 of them paid \$5 each and they showed up at the polls
12 to vote at the same rate as Anglo voters did, would
13 that election exhibit reduced minority turnout?

14 MR. KEISTER: Objection; form.
15 Relevancy and calls for speculation.

16 Q. (BY MR. FREEMAN) You may answer.

17 A. Again, I think you've formulated the
18 question incorrectly, because you didn't say what
19 happened to -- you're talking about reduced turnout,
20 so there's a comparison to something else. I don't
21 know what you're comparing to.

22 Q. (BY MR. FREEMAN) Vis-à-vis the Anglo
23 voters.

24 MR. KEISTER: Same objections.

25 Q. (BY MR. FREEMAN) Or vis-à-vis their --

1 either way, vis-à-vis past turnout or vis-à-vis
2 Anglo voters.

3 If they decided that they were going
4 to pay the \$5 fee and continue to vote at the same
5 rate that they voted previously, would there be
6 reduced turnout?

7 MR. KEISTER: Same objections. Plus
8 confusing, compound.

9 Q. (BY MR. FREEMAN) Let me start over, then.
10 Trying to make it clean. Doing my best.

11 If a jurisdiction decided to fund an
12 election by charging every minority voter \$5, but
13 did not charge Anglo voters, but a large group of
14 minority voters decided that the election was so
15 important that they would pay the \$5 each and showed
16 up at the polls at the same rate that they had
17 previously showed up at the polls and at the same
18 rate as Anglo voters, would that election exhibit
19 that the \$5 fee had reduced minority turnout?

20 MR. KEISTER: Objection; form.
21 Relevancy and calls for speculation.

22 A. And I still don't like the way you're
23 phrasing the question. It's too ambiguous. You're
24 talking about a group turning out at the same rate.
25 It's not telling me about others in the group. So

1 it's -- it's phrased ambiguously.

2 Q. (BY MR. FREEMAN) Let me try again. We
3 have a jurisdiction. The jurisdiction decides it's
4 going to charge black voters \$5 in order to fund its
5 election. Each black voter has to pay \$5 to vote.
6 Within that jurisdiction, black voters, as a group,
7 decide the election is important. They pay \$5 each
8 to vote in sufficient numbers that the same
9 percentage of black voters are voting in the
10 election where they have to pay \$5 as they voted in
11 the prior election where they didn't have to pay
12 anything at all.

13 Would you agree that the election in
14 which they had to pay \$5 did not show reduced
15 minority turnout levels relative to the prior
16 election?

17 MR. KEISTER: Objection; form.
18 Relevancy, vague and confusing, and calls for
19 speculation.

20 Q. (BY MR. FREEMAN) You may answer.

21 A. I am a little confused. May I see it in
22 writing?

23 Q. Dr. Milyo --

24 MR. KEISTER: It was a long, long
25 question.

1 MR. POSNER: You could Xerox that
2 part of your page.

3 Q. (BY MR. FREEMAN) Read that.

4 MR. KEISTER: And just let the record
5 reflect, the witness is looking at the written
6 question. And I will still assert my same
7 objections, unless you want them in writing.

8 A. So am I supposed to do as it was
9 originally written there or what you have written
10 in?

11 Q. (BY MR. FREEMAN) As I have corrected it
12 to try and make it clear for you.

13 A. And what is this word?

14 Q. Prior election.

15 MR. KEISTER: And since there was
16 dialogue, I'll renew my objections. Same
17 objections.

18 A. If I interpret this as you're saying,
19 turnout doesn't change, does it change, then I would
20 say turnout doesn't change.

21 Q. (BY MR. FREEMAN) Okay. Would you agree
22 that in that election, minority voters faced an
23 unequal opportunity to participate in a political
24 process vis-à-vis Anglos, because they had to pay \$5
25 and Anglos did not?

1 MR. KEISTER: Same objections.

2 A. I don't believe my report speaks to that.

3 Q. (BY MR. FREEMAN) I'm trying to ask these
4 questions in order to understand and assess the
5 credibility of your report. And so I would ask you
6 to answer the question regarding the hypothetical as
7 it goes to your methodology of assessing voter
8 turnout.

9 MR. KEISTER: Same objections. And
10 to the extent that it is outside of the report and
11 the issues which he's designated, I would also
12 object. But you can answer.

13 A. Given, by definition, you've stated that
14 black voters have to pay \$5 to vote, that is a
15 difference.

16 Q. (BY MR. FREEMAN) Does voter turnout
17 isolate the rate at which particular election
18 administration provisions discourage individuals
19 from voting or does it include other variables?

20 A. I think you mean is it predicted by or
21 influenced by other variables?

22 Q. Yes.

23 A. Okay. Can we read it again, then?

24 Q. Sure. Does voter turnout isolate the rate
25 at which particular election administration

1 provisions discourage individuals from voting or is
2 it predicted by or influenced by other variables?

3 A. Voter turnout overall would be predicted
4 by a large number -- or affected by a large number
5 of factors.

6 Q. And you're not arguing in your report that
7 the D term is the -- in the cost of voting
8 calculation is the only term that matters. Correct?

9 A. What part of my report are you referring
10 to?

11 Q. I'm referring -- well, let's start with
12 Paragraph 137.

13 Am I correct that you don't know,
14 without looking at your report, whether or not your
15 report states that only the D term matters?

16 A. I like to be well informed about what I'm
17 talking about, and you're asking me specifics about
18 what my report says. I think I would like to see
19 and refresh my recollection.

20 Q. Okay. Let me ask again, now that you've
21 had a chance to look.

22 You're not arguing in your report
23 that the only term that matters to voter turnout is
24 the D term, are you?

25 A. This section of the report is a criticism

1 of the calculus of voting as articulated by Anthony
2 Downs and represented algebraically by Riker and
3 Ordeshook. And so D is not the only determinant of
4 voting in that model.

5 Q. So to the extent that experts in this case
6 have looked at the C term, holding D fixed, you
7 would not say that there's a methodological problem,
8 would you?

9 A. Who has looked at the C term, holding D
10 fixed?

11 Q. Would you say that there is no
12 methodological problem with Dr. Burden or
13 Dr. Webster, focusing on the C term, holding the D
14 term fixed?

15 A. I'm not sure if "methodological" is the
16 word that you want to use.

17 Q. I would like you to answer my question.

18 A. I think there is a problem with assuming
19 that the voter ID law affects only the C term and
20 not some other determinants of voting.

21 Q. And the other determinants of voting would
22 be the D term, to your mind?

23 A. If one had to shoehorn it into this
24 particular representation of voting, you could do it
25 that way.

1 Q. You would agree that it's a very well
2 established framework within political science,
3 correct, the cost of voting analysis?

4 A. It is something that is frequently
5 appealed to, that's correct.

6 Q. Well accepted. Correct?

7 A. As I've demonstrated, there are a number
8 of problems with the simplistic calculus of voting
9 that are well-known; and so, therefore, that is not
10 well accepted unless people don't know what they're
11 talking about; then sometimes they're a little
12 careless in how they state things. So, you know.

13 Q. In the abstract, the framework, the
14 Downsian calculus of voting is well accepted in the
15 discipline of political science. Correct?

16 A. As I've discussed here, I would amend it
17 the way Riker and Ordeshook do. There are decades
18 of commentaries about the problems with the
19 simplistic Downsian analysis. If what you mean is
20 that in general costs and benefits affect turnout,
21 that's different, in my mind, than specifically
22 referencing the Downsian analysis.

23 Q. As updated by professors, such as Aldredge
24 and Ordeshook, the Downsian calculus of voting
25 framework is widely accepted in political science,

1 is it not, as a framework?

2 A. Well, what do you mean as a framework? It
3 is employed to discuss the problems such as the
4 paradox of voting. It's the reason other people
5 have come up with game theoretic or other kinds of
6 explanations for voter turnout.

7 It is a problematic framework. It is
8 well-known. Costs and benefits are still a way in
9 which people talk about determinants of voting.

10 Q. If you could look at Paragraph 139, you
11 state that, "It no longer follows modern or modified
12 version of the Catalist voting that a small change
13 in the cost of voting will lead to a dramatic change
14 in turnout." Correct?

15 A. This is Paragraph 139?

16 Q. That's correct.

17 A. That's what's stated there.

18 Q. Would you consider a 5 percent change in
19 turnout statewide to be dramatic?

20 A. This is in comparison to the predictions
21 of the simple Downsian model, which would suggest
22 that a very small change in costs could completely
23 wipe out turnout.

24 Q. Let me try again. What do you mean by
25 "dramatic"?

1 A. I mean it in the context that it has been
2 used by others as a conclusion based on the simple
3 model, that whatever their conclusion is wouldn't
4 follow based on this model.

5 Q. What percentage in turnout statewide would
6 you consider to be nondramatic? Less than 10
7 percent?

8 A. I don't have a specific number in mind.

9 Q. What would you consider to be dramatic?
10 More than 10 percent?

11 A. The issue of dramatic, again, is reference
12 to a statement about the elasticity or
13 responsiveness of turnout to a small change in
14 costs. It's a reference to a high elasticity versus
15 a lower elasticity, might be one way to describe it,
16 or a lower responsiveness.

17 So the point here is not to identify
18 an absolute number, but a relative difference across
19 the two models.

20 Q. You're not, by training, a political
21 scientist. Correct? You're an economist?

22 A. I have a PhD in economics and I have
23 additional training in political economics. I have
24 been hired as a political scientist. I teach
25 political science. Some people think I'm a

1 political scientist. There isn't like an official
2 card that you get that describes you as a political
3 scientist.

4 Q. But there is a degree in political science
5 and you don't have one. Correct?

6 A. I do not have a PhD in political science.

7 Q. You don't have an undergraduate degree in
8 political science. Correct?

9 A. I do not have an undergraduate degree in
10 political science.

11 Q. You have never received tenure as a
12 professor of political science. Correct?

13 A. My tenure home is in the department of
14 economics.

15 Q. You've taught adjunct courses in political
16 science. Correct?

17 A. I have taught courses cross listed in
18 political science over the years, and I have taught
19 courses in political science over the years.

20 Q. In Paragraph 140, am I correct that you
21 state, "In general, post-registration election
22 procedures" -- you provide some examples -- "have
23 fairly modest, insignificant, or even perverse
24 effects on voter turnout"?

25 A. That is the statement there.

1 Q. By "modest," do you mean effects in single
2 digits?

3 A. By modest I mean referencing the results
4 in some of the literature that's cited, that many of
5 these studies are pointing out that large effects
6 that people thought existed previously, when looked
7 at with more recent data or methods, we'd sometimes
8 find smaller effects or statistically insignificant
9 effects, sometimes even a surprising sign on the
10 effect.

11 Q. And you're aware of the 2005 study by
12 Wolfinger, Highton, and Mullin on this subject?

13 A. I'm aware of that study.

14 Q. And, in fact, you've written before that
15 their study deservedly won an award. Correct?

16 A. I believe that sounds familiar.

17 Q. Wolfinger, Highton, and Mullin found that
18 for the lowest socioeconomic status voters,
19 estimated turnout can rise by more than 10 percent
20 when comparing states with the least burdensome
21 postregistration procedures as compared to the
22 states with the most burdensome postregistration
23 procedures. Correct?

24 A. I would have to look at their study to be
25 sure of that characterization.

1 MR. FREEMAN: Mark this as
2 Exhibit 15. And if you could turn to page 15,
3 Table 5.

4 (Exhibit Number 15 marked.)

5 Q. (BY MR. FREEMAN) And this table shows the
6 difference between the estimated turnout with worst
7 practices and the estimated turnout with best
8 practices. For individuals with less than a high
9 school education it's estimated to be 10.7 percent.
10 Correct?

11 A. That looks to be what this table reports.

12 Q. And in the same table they found that the
13 projected turnout increases with universal adoption
14 of best practices, with smallest for whites, larger
15 for blacks, and larger still for Hispanics.

16 Correct?

17 A. In this table, that looks to be correct.

18 Q. You also cite to, "Why Electoral Reform
19 Has Failed. If You Build It, Will They Come?", by
20 Traugott, in your report. Do you recall that?

21 A. It may be cited in multiple places. I can
22 see one citation here in footnote 98.

23 Q. And you cite that for the notion that
24 electoral reforms may only have modest, nonexistent,
25 or perverse effects on turnout?

1 A. As part of the literature on
2 postregistration election procedures.

3 Q. In fact, what Traugott describes as small
4 effects on turnout are changes that are mostly in
5 the single digits. Correct?

6 A. I don't recall that exactly.

7 Q. Did you read Traugott in preparation for
8 your report in this case? Did you rereview it?

9 A. I believe I have looked at all of the
10 studies that are referenced.

11 Q. And do you recall what size of effects
12 Traugott found?

13 A. I don't recall off the top of my head.

14 Q. Would you agree that Traugott observed
15 positive changes in turnout due to reductions in the
16 cost of voting?

17 A. I would have to look to answer that with
18 complete confidence. But --

19 Q. Are you familiar with the political
20 science literature finding that costs related to
21 such mundane things as the weather may reduce voter
22 turnout?

23 A. There are, I believe, multiple studies
24 that might fall under that heading.

25 Q. Are you familiar with the political

1 science literature finding reductions in turnout
2 based on increased travel costs related to reaching
3 a more distant polling place?

4 A. I believe I recall seeing a reference to
5 that in one of the supplemental reports. And I
6 believe I have seen a working paper perhaps, or --
7 I'm not sure whether it was a working paper or a
8 recent publication.

9 Q. Would you agree that SB 14 imposes a cost
10 primarily on those voters who do not already possess
11 SB 14 ID?

12 A. For individuals who wish to -- who votes,
13 then they would need to acquire some form of ID.

14 Q. So the cost of -- for purposes of the cost
15 of voting, the cost term increases caused by SB 14
16 relate primarily to individuals who don't already
17 have SB 14 ID and want to vote. Correct?

18 A. Yes.

19 Q. Would you agree that for those voters who
20 do not already possess SB 14 ID, the cost required
21 to obtain SB 14 ID is greater than the cost of
22 registration, in terms of the cost of voter
23 framework?

24 MR. KEISTER: Object to form.

25 A. Are they already registered?

1 Q. (BY MR. FREEMAN) I'm asking for an
2 apples-to-apples comparison. Person who is
3 registered, but needs to get ID, versus a person who
4 is not registered and needs to register. Would you
5 agree that the cost to obtain ID is greater than the
6 cost to register?

7 MR. KEISTER: Object to form. It
8 calls for speculation.

9 A. Yeah. I don't think I speak to that in
10 the report.

11 Q. (BY MR. FREEMAN) I'm asking your basic
12 understanding of the processes involved here, as
13 someone who expressed familiarity with political
14 science and understands what the process involved is
15 to register to vote and someone who has studied
16 SB 14 to the extent demonstrated in your report. Do
17 you believe it is more or less burdensome to obtain
18 an ID in comparison to registering to vote?

19 MR. KEISTER: Object to form.

20 A. I don't believe I spoke to that in the
21 report. So you're asking for speculation.

22 Q. (BY MR. FREEMAN) So are you saying you
23 don't have enough information about the burdens
24 involved in obtaining an ID in order to be able to
25 compare it with what you already know about the

1 costs involved in simply registering to vote?

2 MR. KEISTER: Object to form.

3 Mischaracterizes prior testimony.

4 Q. (BY MR. FREEMAN) You may answer.

5 A. I believe what I said was that I don't
6 discuss that in the report. I can -- it sounds like
7 you're asking me to speculate about that kind of --

8 Q. (BY MR. FREEMAN) I'm asking you to apply
9 the information that you have to a pretty simple
10 question, which is, is the cost entailed in
11 obtaining an ID greater than the cost entailed in
12 registering to vote?

13 MR. KEISTER: Same objections.

14 A. I suppose it depends on the circumstances
15 of the particular person.

16 Q. (BY MR. FREEMAN) On average, based on the
17 information that you have obtained in your
18 preparation to testify in this case, would you say
19 that the cost entailed to obtain ID is greater than
20 the cost entailed to register to vote?

21 MR. KEISTER: Same objections.

22 A. I have not examined, in this report, the
23 costs of registering to vote.

24 Q. (BY MR. FREEMAN) Are you aware, in any
25 background that you have as a social scientist, of

1 the costs involved in registering to vote in the
2 State of Texas?

3 A. I would have to refresh my memory back to
4 the -- some of the expert reports, if they reference
5 that. But nothing comes to mind immediately in
6 terms of a systematic estimate of the cost of
7 registration.

8 Q. (BY MR. FREEMAN) You mail in a form, am I
9 right, to register to vote? You just mail in a
10 form?

11 MR. KEISTER: Object to form.
12 Argumentative.

13 A. I believe your experts have testified that
14 there's much more to costs.

15 Q. (BY MR. FREEMAN) Have you registered to
16 vote in the last ten years?

17 A. In the last ten years.

18 Q. Do you know how one registers to vote,
19 what the process is?

20 A. I recall how I registered to vote.

21 Q. Did you submit a form?

22 A. I don't recall that exactly. I believe it
23 was when I moved to Missouri.

24 Q. And how did you register to vote?

25 A. I believe it was at the time that I

1 obtained my driver's license.

2 Q. For individuals who are not obtaining a
3 driver's license, are they able to register to vote
4 by mailing in a form?

5 MR. KEISTER: Objection; form.
6 Argumentative, calls for speculation.

7 A. I haven't made it my business to look at
8 the registration process in Texas, to answer that
9 definitively.

10 Q. (BY MR. FREEMAN) So you don't know how
11 one registers to vote in the State of Texas, whether
12 one can just mail a form?

13 A. With complete confidence? I --

14 Q. Okay. Compared to the number of polling
15 places, are you aware of whether EICs can be
16 obtained at more locations in Texas or fewer
17 locations in Texas?

18 MR. KEISTER: Object to form.
19 Confusing, compound.

20 Q. (BY MR. FREEMAN) On average, do you know
21 if there are more locations where you can apply for
22 an EIC or more locations where you can vote in
23 person on election day?

24 A. I'm not familiar with the number of
25 polling locations on a particular election day.

1 Q. Have you studied election administration?

2 A. Some aspects.

3 Q. Are there generally multiple polling
4 places in a city, dozens, hundreds, sometimes?

5 A. Could be.

6 Q. Do you know if there are dozens or
7 hundreds of places to obtain an EIC in the city of
8 Houston, for example?

9 A. I don't know the exact number.

10 Q. Do you know if there are fewer than ten?

11 A. I don't believe that's something that I
12 spoke to in my report.

13 Q. Did you ever review the report of
14 Dr. Gerald Webster?

15 A. Yes, I did.

16 Q. Did you identify, in the report of
17 Dr. Gerald Webster, how many locations there are to
18 obtain -- to apply for an EIC in the city of
19 Houston?

20 A. I don't recall committing that to memory.

21 Q. Let's refresh your recollection. You can
22 look at Figure 6 of Dr. Webster's report. Let's
23 take a look at the dots that represent DPS locations
24 or temporary EIC locations.

25 Looking at that, would it be fair to

1 say that there are likely far more locations in the
2 city of Houston where there are polling places on
3 election day than there are locations where one can
4 apply for an EIC?

5 MR. KEISTER: Objection; form.
6 Relevancy.

7 A. Based on this diagram, I would say so.

8 Q. (BY MR. FREEMAN) Would you agree that on
9 average for those voters who do not already possess
10 SB 14 ID, the cost of traveling to apply for an
11 SB 14 is greater than the cost of traveling to a
12 polling place?

13 MR. KEISTER: Objection; form.

14 A. That's not something I spoke to in my
15 report.

16 Q. (BY MR. FREEMAN) But based on your
17 knowledge as a social scientist and what we just
18 discussed, would you describe that statement as
19 accurate?

20 MR. KEISTER: Objection; form.

21 A. Based on the diagram that you've
22 presented, costs, in terms of travel time, would
23 look to be greater, on average.

24 Q. (BY MR. FREEMAN) Would you agree that
25 there are education costs for an individual to

1 determine the requirements to apply for an EIC?

2 A. By education costs you mean of acquiring
3 information?

4 Q. Yes.

5 A. There could be.

6 Q. Would you agree that some individuals may
7 need to travel to obtain other documents necessary
8 to apply for an EIC?

9 MR. KEISTER: Objection; form. Calls
10 for speculation.

11 A. I believe there may be individuals who are
12 in that circumstance.

13 Q. (BY MR. FREEMAN) Let's turn to
14 Paragraph 151 of your report.

15 You state that several recent studies
16 report that overall voter turnout rates are either
17 unaffected or there are no statistically significant
18 difference, or positively affected by State voter ID
19 laws. Correct?

20 A. I'm sorry, Paragraph 151?

21 Q. 151.

22 A. "However, several recent studies," yes.

23 Q. Which studies do you rely upon for the
24 notion that overall voter turnout rates are
25 positively affected by State voter ID laws?

1 A. There's several studies here, so we would
2 have to pull them out. But the statement is either
3 unaffected or positively affected.

4 Q. And I'm asking based on the studies you
5 cited, which of those studies indicate a positive
6 effect?

7 A. I would have to look back at the Mycoff
8 and the Loraca [phonetic] papers.

9 Q. You say in your report -- excuse me.

10 You cite an article by Alvarez,
11 Bailey, and Katz, a working paper, is that correct,
12 for the notion that there's mixed evidence regarding
13 any different effect of State voter ID laws on black
14 and Hispanic voters?

15 A. Is this footnote 109?

16 Q. I'm looking at footnote 113 and 109 as
17 well. Yes, footnote 109, the last citation.

18 A. I see where they're cited.

19 MR. FREEMAN: Mark this as
20 Exhibit 16.

21 (Exhibit Number 16 marked.)

22 Q. (BY MR. FREEMAN) Turn to page 18, please.
23 Would you agree that Alvarez, Bailey, and Katz finds
24 that the probability of voting decreases as voter ID
25 regimes become more strict, both for white and

1 nonwhite respondents?

2 A. Actually, they impose a restriction on the
3 data estimate. So this is not as transparent in the
4 diagram here as you're representing. And you can
5 sort of look at it and see that there may be
6 nonlinear effects.

7 Q. But would you agree that both lines have a
8 negative slope for both white and nonwhite
9 respondents?

10 A. In the figures that they publish in this
11 report, it looks like both lines have a negative
12 slope.

13 Q. Please look at the block quote in
14 Paragraph 151 of your report. It's actually on the
15 next page from where you were.

16 You rely on this working paper for
17 the notion that controlling for education and
18 income, Alvarez, Bailey, and Katz did not see an
19 effect on voter ID laws by race. Correct?

20 A. Where are you pointing here on 151?

21 Q. The block quotes.

22 A. The block quote.

23 Q. It's on the next page. It's still part of
24 that paragraph.

25 You rely on Alvarez, Bailey, and Katz

1 for the notion that controlling for education and
2 income, they did not see an effect in voter ID laws
3 by race. Correct?

4 A. That's correct.

5 Q. Turn to page 19 of Exhibit 16.

6 Would you agree, first, that the
7 sentence at the top of page 19 is not the same as
8 the sentence in your report, that the quotation in
9 your report is not accurate?

10 A. I believe you have a different version of
11 the report than what I cite.

12 Q. This is the 2008 working paper.

13 A. I believe it says Version 2 on it. And
14 what I cite doesn't say Version 2.

15 Q. Okay. Am I correct that there's no effect
16 on race only if you control for education and
17 income, however?

18 A. In which specification?

19 Q. In Alvarez, Bailey, and Katz.

20 A. In which specification? They run many
21 different statistical tests.

22 Q. Well, with regard to what you quoted in
23 your report.

24 A. Can we see the report that I quoted?

25 Q. I'm afraid it appears that you're stating

1 that I have a different version of your report, and
2 I don't know what version you cited to. If there
3 are multiple versions, I apologize for that.

4 If you can -- if you can turn to page
5 21 of the working paper that we have here, the
6 Alvarez, Bailey, and Katz.

7 A. This one?

8 Q. Yes, page 21. Would you agree that this
9 states that at the individual level, voter
10 identification requirements, that the strictest
11 forms - combination requirements of presenting
12 identification and matching signatures, as well as
13 photo identification requirements - have a negative
14 impact on voter participation relative to the
15 weakest requirement of stating one's name?

16 A. That looks to be a verbatim reading of
17 what they state here.

18 Q. Would you also agree that at the very
19 bottom of that page, it states, However, we do not
20 find -- or we do find that for registered voters
21 with lower levels of educational attainment, or
22 lower income, stricter voter identification
23 requirements do lead to lower turnout?

24 A. I believe that is a verbatim reading of
25 what they state in this report.

1 Q. Do you know if education and income levels
2 are similar between racial groups in Texas or if
3 Anglos, in fact, have higher levels of education and
4 income than minority Texans?

5 A. I believe I have seen evidence from some
6 of the expert reports that would suggest differences
7 in socioeconomic status.

8 Q. So, yes, there are differences and Anglos
9 have higher socioeconomic status, on average, in
10 Texas?

11 A. That is my understanding.

12 Q. Do you know if a subsequent version of
13 Alvarez, Bailey, and Katz was published?

14 A. You know, they published a methodological
15 note in a journal called Political Analysis that
16 incorporates some of the material here.

17 Q. Let's mark that as Exhibit 17 and we'll
18 know we have the same thing.

19 (Exhibit Number 17 marked.)

20 Q. (BY MR. FREEMAN) Please turn to page 28.
21 Would you agree, looking at pages 28 and 29, that
22 Alvarez, Bailey, and Katz applied two different
23 models to assess the impact of the strictness of
24 voter ID regimes on the probability of voting?

25 A. I would need to refresh my memory about

1 this particular study. Do you want to point me to
2 the two particular models that you have in mind?

3 Q. Well, Figure 2 and Figure 3.

4 A. Can you point me to the equations of the
5 description of the model?

6 Q. I believe the models are laid out on pages
7 21 through 23. And if you'd like to take a break to
8 review that, we certainly can.

9 A. I can look at it right now. 21 through
10 23. These are the general models. I'm talking
11 about the particular application. That's different
12 across these two specifications. But I can look at
13 the diagram.

14 Q. Would you agree that applying both models,
15 Alvarez, Bailey, and Katz found a large and
16 statistically significant negative effect for a
17 photo ID-required voter ID regime?

18 A. I'm looking at the error bounds on photo
19 ID required in Figure 1. And, again, as I recall
20 this method, they force a -- they force an ordering
21 relationship among these. So this is not an
22 analysis that is similar to the typical kind of,
23 say, regression-based estimate. This is why it's
24 published as a methodological note, this empirical
25 datas approach.

1 So they're imposing an assumption
2 about the relationship on the data that forces this
3 kind of ordering. So that's one concern about this
4 study.

5 Q. If you have concerns about the study,
6 let's move on, then. That's fine.

7 (Exhibit Number 18 marked.)

8 Q. (BY MR. FREEMAN) I've marked this as
9 Exhibit 18. Is this the article by Mycoff, Wagner,
10 and Wilson that you cite in your report?

11 A. I believe this is the article.

12 Q. If you could turn to page 5 of the
13 exhibit, Footnote 1. It's page 125 of the journal,
14 fifth page of the exhibit, Footnote 1 and note 1.

15 Would you agree that Mycoff, Wagner,
16 and Wilson wrote that one can, however, reasonably
17 conclude that those without identification will be
18 less likely to vote?

19 A. That is a verbatim reading of the last
20 sentence of Footnote 1.

21 Q. Do you have any reason to disagree with
22 that statement under a photographic voter ID regime?

23 A. Do I have any reason?

24 Q. Yes. That all else held equal,
25 individuals without ID will be less likely to vote

1 under a photo voter ID regime?

2 A. Well, the question is, if I have any
3 reason, then yes.

4 Q. What is that reason?

5 A. Well, I have concerns about the ways in
6 which the treatment effects of voter ID laws on
7 voter turnout have been estimated in the extant
8 literature.

9 Q. Have you -- you've published your own
10 study on the treatment effect of voter ID laws.
11 Correct?

12 A. Long ago. We looked at that policy
13 report.

14 Q. But it wasn't published in a -- in a
15 peer-review journal. Correct?

16 A. That's correct.

17 Q. And it showed a before and after look at
18 Indiana's photographic voter ID law. Is that
19 correct?

20 A. It did.

21 Q. And it looked at 2002 and 2006 election
22 data?

23 A. It did.

24 Q. What is a historical confound?

25 A. I know what confounding means. You're

1 using a particular term of art that -- I don't know
2 that I've used that description. Do you want to
3 give me a synonym?

4 MR. KEISTER: Counsel, we've passed
5 seven hours, so if you want to wrap up this last
6 question.

7 MR. FREEMAN: Counsel, we've wasted
8 many hours based on the dilatory --

9 MR. POSNER: We should probably
10 discuss this off the record.

11 (Discussion off the record.)

12 MR. FREEMAN: I'm going to state on
13 the record that the dilatory practices of this
14 witness have wasted an incredible amount of time in
15 this deposition, and the refusal to answer basic
16 questions have wasted multiple hours.

17 Moreover, the Rules clearly
18 contemplate that in depositions where there are
19 multiple parties or a particular witness addresses
20 numerous issues, that the parties should be free to
21 agree to a longer period of time.

22 I'm going to specifically request, as
23 a courtesy to counsel who has waited on the phone,
24 that at a minimum, we give ten to 15 minutes to that
25 counsel so that she will have an opportunity to ask

1 her questions.

2 However, I will request to leave my
3 own questioning open. And I will be going to the
4 Court with this.

5 MR. KEISTER: Okay.

6 MR. FREEMAN: Because there's
7 absolutely no way that we should be limiting this
8 particular deposition, given the conduct that has
9 occurred here, to seven hours.

10 I would specifically request that we
11 allow counsel who is on the phone to get her 15
12 minutes as a professional courtesy, as a separate
13 matter. I think that that's a reasonable thing.

14 MR. ROSENBERG: And we obviously
15 support this. I think it was clear, and if anyone,
16 particularly a judge looks at the transcript of what
17 occurred here, I think that there will be very
18 little doubt that this deposition will be continued.

19 But I certainly urge you to allow
20 counsel who has been on the phone to take her 15
21 minutes and ask the questions.

22 MR. KEISTER: Let me just state, I
23 disagree with your characterization. I think
24 Dr. Milyo has answered the questions that's come to
25 him fully and accurately.

1 And as much as I normally would agree
2 with professional courtesy, we've all got to get to
3 Corpus Christi and I'm going to call this
4 deposition. So that's -- I'm sorry, but --

5 MR. FREEMAN: Mr. Keister, I --

6 MR. KEISTER: I'm sorry, I've got to
7 go.

8 MR. POSNER: Well, before -- I don't
9 know --

10 MR. KEISTER: That's it. We're going
11 to read and sign. We're done.

12 MR. POSNER: The person on the phone
13 would like to speak.

14 MR. KEISTER: The person on the phone
15 can speak, but I'm calling the depo at seven hours.

16 MS. FARANSSO: Yeah, I would just
17 reiterate what Mr. Freeman said, and say that we
18 would like to reserve our opportunity to ask
19 questions at a later time.

20 MR. FREEMAN: Mr. Keister --

21 MR. KEISTER: I'm sorry. I've got to
22 go. I've got stuff to do.

23 MR. FREEMAN: We all have stuff to
24 do. I understand that. However, I don't think you
25 can deny that there are basic, simple questions that

1 this witness has refused to answer in a direct
2 manner.

3 MR. KEISTER: No, I --

4 MR. FREEMAN: And that that has
5 wasted an incredible quantity of time. We are going
6 to waste time here.

7 MR. KEISTER: I don't agree with
8 that. But, guys, I'm not --

9 MR. FREEMAN: Do you want this record
10 read to the Judge?

11 MR. KEISTER: Yes. I'm not going to
12 change my opinion. I'm going home. I've got to
13 pack, I've got to take dogs to the kennel. I've got
14 to get ready for tomorrow's hearings.

15 We've done seven hours. It's been
16 fun, it's been full. He's answered every question
17 that's come to him, and we're off the record. He'll
18 read and sign. Thank you.

19 MR. FREEMAN: Tania, I personally,
20 deeply apologize for what's happened.

21 MS. FARANSSO: I appreciate it.
22 Thank you, Dan.

23 MR. ROSENBERG: We're off the record.
24 (Deposition adjourned at 6:30 p.m.)

25 -oOo-

1 REPORTER'S CERTIFICATE

2 STATE OF TEXAS §

3 McLENNAN COUNTY §

4 I, Melody Reneé Campbell, Certified Shorthand
5 Reporter in and for the State of Texas, do hereby
6 certify that the foregoing deposition is a full,
7 true and correct transcript;

8 That JEFFREY MILYO, PhD, the witness
9 hereinbefore named, was duly sworn by the officer
10 and that the oral deposition was taken by the
11 officer in machine shorthand on AUGUST 26, 2014, and
12 is a true record of the testimony given by the
13 witness;

14 I further certify that the signature of the
15 deponent was requested and is to be returned within
16 30 days from date of receipt of the transcript. If
17 returned, the attached Changes and Signature Page
18 contains any changes and the reasons therefor;

19 That § _____ is the deposition
20 officer's charges for preparing the original
21 deposition transcript and any copies of exhibits,
22 charged to THE UNITED STATES OF AMERICA;

23 I further certify that I am neither counsel
24 for, related to, nor employed by any of the parties
25 in the action in which this proceeding was taken,

1 and further that I am not financially or otherwise
2 interested in the outcome of the action.

3 Subscribed and sworn to on this the 28th day
4 of AUGUST, 2014.

5
6
7 



8 MELODY RENEE CAMPBELL, RMR, CRR, #38267
9 U.S. LEGAL SUPPORT, INC.
10 CRCB Firm Registration Number 344
11 701 Brazos, Suite 380
12 Austin, Texas 78701
13 512.292.4249
14 512.292.3866 (Fax)

15
16
17
18
19
20
21
22
23
24
25 JOB NO. 4-AUSTIN-168243

JEFFREY MILYO, PhD

8/26/2014

1

A	accept 28:21,22 153:14 264:13	153:19,25 155:18 205:23	adopt 150:20
\$15,000 58:18 59:2,5	acceptable 252:14	active 228:11,20	adoption 284:13
\$25,000 59:16	accepted 28:15 57:3 149:14 150:3	229:3 230:7,11,18	advance 56:25
\$3 157:10,15,17 158:1	151:24 179:6,10,14	activities 151:2	advise 33:1
\$400 58:17,23,24 60:9	242:21 243:5,9,15	activity 15:21,23	Affairs 51:10
\$5 271:17,20 272:8 272:11 273:4,12,15	243:19 263:12,16	actual 56:25 169:5	affect 4:17 5:8 70:9 70:17 279:20
273:19 274:4,5,7,10	264:7,14 279:6,10	170:18 217:11,17	Affidavit 5:6
274:14 275:24 276:14	279:14,25	217:23 218:6,12,16	affiliation 118:12 119:17
\$6,000 52:22	access 47:15 155:13 155:22 156:1	220:12 221:5,7	affirmative 116:19 197:4
\$65,000 60:10	190:14 193:25	223:3 224:25 225:8	affirmatively 142:2
\$8,000 52:22	194:5 263:5 264:3	227:10,19 236:14	affix 306:21
a.m 1:20	account 174:11 228:13 241:5	240:14 253:17 255:21	afraid 296:25
ability 12:18 109:11 128:17,18 136:4	accounts 149:20 150:14	add 90:9 136:6	African-American 210:25
154:13 158:4 175:24	accuracy 60:18 143:24 259:21	added 143:14	African-Americans 79:21
able 9:7 71:6 137:19 138:22,25 139:20	260:4,25 261:13	addition 240:18	afternoon 247:10
140:12 141:1	266:12 267:12,16	additional 108:14,15 142:25 143:1,3	afterward 136:1,3 207:10
154:25 158:9 167:2	268:3,10,14	156:8 172:3,5 173:8	age 94:7,12,21,25 95:1,6,7,12,20
176:1,3 182:19	accurate 59:2 62:23 62:25 100:20	173:9 174:11	96:11 125:7,13
183:1 186:16	126:17 143:23	191:25 192:23	249:16 256:20
188:11,18,25	171:12 177:10	195:2,20 196:9,23	aggregate 56:3 124:18 212:14,17
191:24 217:10,16	178:8 192:19	205:10,14,17	212:18,19,22
221:4 229:11	194:19 195:3,6,8,21	207:23 209:1 210:5	213:15 271:1,6,8
231:12 234:15	196:1 205:1 211:13	212:21 213:2,20	aggressively 212:4
251:8 254:21 255:3	216:17,19,21 221:7	238:1,2 246:1	ago 14:8 15:6 56:13 57:7 89:3 128:7
287:24 290:3	250:22 259:2 264:7	252:23 281:23	170:3 178:14
above-styled 1:19	271:6 292:19 296:9	address 109:25 128:17 186:1 235:9	191:21 255:21 301:12
absence 261:18	accurately 9:8 63:1 96:18 98:23 192:20	236:2,6,11,17 237:2	Agraharkar 2:10 6:24,25
Absent 5:14	194:8 227:12 303:25	237:8,9,16,21	agree 33:17 46:5 90:13 98:17 123:19
absolute 281:18	achieve 88:5	239:17 264:25	149:13 151:7 153:5
absolutely 22:6 64:15 253:10 303:7	acquire 257:22 286:13	addressed 110:17 268:23 269:19	153:11 154:18
absorb 168:3 171:9	acquiring 293:2	addresses 302:19	155:5 158:14
abstract 116:14 119:4 279:13	ACS 123:15	addressing 169:16	159:24 178:1 181:8
academic 16:6 17:9 21:16 22:12 23:5,8	action 1:5 116:19 307:25 308:2	adjoined 305:24	194:16,22 195:7,16
44:15 50:15 62:20	actions 107:1 153:2	adjunct 282:15	
128:14 146:5 148:8		adjustment 94:6	
		administration 276:18,25 291:1	
		admit 157:10 165:14	
		Admittedly 132:24	
		Ado 5:1 190:3	

JEFFREY MILYO, PhD

8/26/2014

2

196:6 203:11 205:5 205:10 210:14,20 211:4,14 212:20 213:6 215:25 216:8 216:16 218:5 219:11 222:4 226:17 228:11,17 230:17 235:15,17 237:6,12 239:13 242:4,8,17,21 243:3 255:17 263:11 270:3,25 271:5 274:13 275:21 279:1 285:14 286:9 286:19 287:5 292:8 292:24 293:6 294:23 295:7 296:6 297:8,18 298:21 299:14 300:15 302:21 304:1 305:7 agreed 111:9 123:2 agreement 59:4,10 ahead 30:23 90:9 112:21 139:11 217:3 257:16 Aid 3:15 al 1:3,7 2:19 3:9 227:9,18 alcohol 46:14 Aldredge 279:23 algebraically 278:2 algorithm 237:1,14 239:15 alive 186:1 allow 80:18 303:11 303:19 allowed 76:19 aloud 105:14 alternative 218:18 219:12 257:8 Alvarez 5:11,12 294:10,23 295:18 295:25 296:19 297:6 298:13,22 299:15	ambiguity 113:8 ambiguous 94:4,10 94:21,25 98:14 145:22 146:9 147:15 273:23 ambiguously 274:1 ameliorated 153:2,19 153:25 amelioration 155:17 156:5,13 amend 254:5 279:16 amended 4:19 128:2 Amendment 73:18 AMERICA 3:2 307:22 American 1:17 2:2 50:8 62:21 63:11 70:25 243:25 Americas 2:12 amortization 159:7 amount 73:12 226:1 226:10,13 250:12 302:14 analyses 62:11,16 147:24 235:20 analysis 4:23 53:17 53:18,20,21 62:6,22 63:12 64:8 67:18 69:21 70:14,21 71:6 73:3,16 77:1,2,24 79:1,25 80:14,18 93:3,5,14,16,22 124:20 142:23 144:13 145:25,25 146:22,24 147:25 173:8 174:20 175:7 175:11 176:4,7 177:19 178:21 184:3 186:11,16,19 186:22 190:16 194:25 195:12 196:14 197:10,11 199:13 201:10,12 202:6,10,15 205:12 205:16 208:15,17	209:23 212:5 213:11,21 238:7 240:8 253:13 254:3 258:1 266:7,10 267:14 268:1,7,21 269:16 279:3,19,22 298:15 299:22 analytical 255:11 analyze 79:7 148:17 176:2,3,22 177:13 190:13 analyzed 66:13 149:1 180:20 181:9 183:13,24 210:21 211:5 228:18 229:2 analyzing 65:7 177:21 228:11 230:18 and/or 85:6 Anglo 210:24,25 271:18,21 272:9,12 272:22 273:2,13,18 Anglos 253:15,15,21 254:8 275:24,25 298:3,8 anomalies 214:9 Ansolahehere 5:5 38:4 40:13,22,23 67:1,14,25 161:21 161:24 162:1 172:3 172:7 173:7,13 174:17 176:14 177:7 194:6,18,24 195:1,4,18,22,25 196:17,23 198:19 199:12 200:17,24 201:2,23 202:3,25 203:12 205:18 206:6,15 207:25 208:20 209:2,9 210:7,21 211:5,8,16 211:22 213:12 214:11 217:9,15,21 218:5,17 220:13 228:17,22 229:1,19	231:1,7,17 236:5,23 240:9 244:25 250:7 251:22,25 252:13 252:24 264:20 269:12,19,22 Ansolahehere's 162:17 163:1,12 165:2 174:10 175:10,17 176:4 196:8,12,13 197:14 197:22 198:2,12 200:20 210:15 228:23 229:8,10 232:20 236:25 237:5,14 238:24 239:2,15 240:8 241:1 249:24 250:25 251:7 253:13 254:2 264:25 265:17,22 267:22 268:4,18 answer 8:12,19 12:2 13:15 17:18 25:16 29:3,19 30:8,21,23 45:24 48:9 70:5,13 71:4 76:20,20,22 78:7 82:5,11 83:5 85:17 88:23 89:10 89:19 95:12 96:20 98:10 101:3 102:12 106:12 108:5,6,21 109:3,8,12,13,14 119:1 122:14,21 134:12 135:17 140:19 141:25 142:4 149:23 150:1 155:6 162:23 167:3 188:2 194:21 197:4 199:1,6,21 203:23 204:23 207:12 217:2 249:15 254:5 271:24 272:16 274:20 276:6,12 278:17 285:17 288:4 290:8 302:15
---	---	---	--

JEFFREY MILYO, PhD

8/26/2014

3

305:1	232:15,17,21	47:6 69:8,19,20,24	82:10 85:4 100:22
answered 21:22 69:8	233:15	70:1,15 178:25	101:7 113:4 114:18
82:11 88:25 102:6	appendicis 162:13	234:6	115:3 132:7 170:13
170:20,25 171:5	163:22 231:22	argue 184:18	170:15,23 175:19
175:20 198:4,22,24	232:22	arguing 277:6,22	178:13 198:3,22,23
198:25 199:1,3,15	apples 270:11	argument 87:12	199:3,15,18 200:13
199:19 201:25	apples-to-apples	88:13 105:6	204:15 207:13,14
204:16 234:19	287:2	Argumentative	208:8 231:10
303:24 305:16	applicable 70:15	210:2 216:25	234:18 236:3,4
answering 46:10 48:7	application 73:9	229:16 289:12	245:21,22
48:8 119:11 121:23	299:11	290:6	asking 34:1 37:9 43:8
172:22 234:8	applied 64:21 69:25	arguments 65:25	44:21,23 49:21
240:22	73:17 147:3 225:24	78:21 81:7,17 87:9	53:25 54:13 57:6
answers 31:1 92:16	298:22	88:1,17 116:25	59:7 62:1 64:13
92:17 113:11,20	applies 227:23	169:17,18 270:21	66:4 69:18 72:24
134:16 139:19	apply 115:2 120:14	arrive 224:22 225:6	77:18 78:1 79:4
140:11 141:6,20	154:15 161:6	arrived 244:25	83:7 86:15 93:6
145:15,22 146:9	225:22 245:24	arriving 227:7	100:9 103:5,24
217:5	249:13 251:13	art 302:1	113:8 121:18 129:9
Anthony 278:1	253:9 288:8 290:21	article 47:9,15 49:2	139:25 146:11
anybody 42:15 77:25	291:18 292:4,10	64:9,14 66:9 71:10	154:20 156:8
anyplace 57:22	293:1,8	103:20 116:8,24	172:18 186:14,15
133:25	applying 225:25	117:3,4,5,10,12,21	187:11 188:4 189:6
anytime 46:3 172:13	299:14	118:5,6,11 122:19	197:18 198:16
Apart 76:9,10	apportion 157:9	122:20,24 124:10	199:5,6 202:12
apologies 142:10	apportioned 158:13	124:12,20 125:1	203:22,23 216:21
apologize 16:5 42:11	appreciate 12:10	180:24 187:9,19	220:7 224:2 229:19
99:15 125:16	207:12 305:21	188:3,9 189:13	230:6 239:6 245:23
195:14 297:3	approach 5:12 147:2	190:8,18,22 191:1,6	245:25 259:24
305:20	149:6 299:25	191:12,15 192:1,4,6	260:18,23 277:17
apparently 126:16	appropriate 107:6,10	214:11,13 218:4	287:1,11,21 288:7,8
appealed 279:5	108:20 109:17	219:15,17 243:24	294:4
appear 62:11 169:15	approval 50:21	244:5 294:10 300:9	asks 95:20 100:14
appearance 36:13	approximately 60:24	300:11	101:11 128:20
appearances 6:2,20	61:6,11 189:9 228:4	articles 35:7 47:7,10	140:2
appeared 143:14	232:1	48:4 73:8 115:24	aspect 50:19
146:21	approximates 109:23	116:1 128:14	aspects 74:17 85:4
appears 9:21 10:9	approximation 61:7	244:11	291:2
12:16 98:19 109:6	April 9:13	articulate 241:10	assert 177:12 181:16
112:24 139:14	archive 133:14	articulated 278:1	182:1 184:12
143:18 186:7 212:5	area 23:6 51:15	artificially 241:4	193:20 194:17,23
296:25	55:15 61:16 62:19	ascribe 28:11	195:17 217:8
appendices 164:1,11	63:1 65:7,19 70:25	asked 27:12 30:18	249:23 264:19
165:13,14,18,19	88:11,12 96:17	31:6,7,10 48:12	270:17 275:6
231:20,24 232:13	areas 33:10 43:17	62:4 68:6,9 78:19	asserted 250:4

JEFFREY MILYO, PhD

8/26/2014

4

asserting 195:5	126:25 127:4	awareness 179:4,8	127:2 129:2,17,25
assertions 195:7	attitudes 117:1 118:2		130:24 137:5
assess 174:16,18	Attorney 3:10 12:12	B	138:13 139:13
175:16 189:15	13:9 42:22 172:17	B 4:6	141:17 146:22
190:10,20 191:3,10	attorneys 33:3	back 9:15 17:5 24:23	193:10
236:25 268:3 276:4	attributable 156:21	27:19 30:25 31:5	Barreto's 106:18,23
298:23	157:3,11,19 220:8	34:20 43:3 52:20,25	Barreto/Sanchez
assessed 191:11	attributed 43:24 44:2	53:10,12 72:20	4:18 40:12 105:24
237:3	August 1:11,19 11:12	88:23 89:2 94:18	130:17,19 131:4
assessing 276:7	11:16 22:18 161:16	102:13,17 105:24	132:8 137:2
Assessment 5:3	161:22 162:11	113:7 114:13	barriers 77:3
assessments 191:18	163:8,20 164:20	126:16 137:24	Barry 48:24 163:7
assignment 174:1	165:21 166:16	141:19 152:13,14	167:25 232:12
assistant 17:9,11	167:10,16 172:4,8	156:7 158:18,19	base 18:13 228:2
21:15,17 22:11	172:11,13 174:5	167:2,22 170:11,12	235:25
associated 52:3,4	175:6 176:15	178:13 181:13	based 9:22 53:2,13
149:19 150:7	182:13,18 194:1,7	182:14,21,23 183:8	55:2 60:2 61:4
Association 50:7,8	196:24 200:7,8	183:12 185:15	81:24 85:10 108:17
54:11	257:9 307:11 308:4	191:20 193:12	119:8 125:4 144:22
associations 64:17	Austin 1:24 2:8 3:11	203:6 217:23 218:3	159:7 173:14
assume 39:1 99:23	3:16 308:9	225:16 229:7	174:19 175:2,11,11
101:9 132:1 136:13	authored 64:25	245:15 247:1,6,10	178:10 184:6
151:3 214:23	authors 177:18	248:16 250:2,16,24	190:13 193:16,24
227:22	automobile 149:17	265:6 289:3 294:7	194:1,7 195:19
assumed 258:8,22	availability 33:6	back-and-forth	199:12 211:9
259:13	available 87:8 123:16	163:2	212:18 213:9,11
assuming 152:18	123:17 192:12	background 288:25	214:13 253:7
216:6 278:18	Avenue 2:12,15,21	bad 76:7,16 77:23	255:12,18 256:14
assumption 228:3	3:4	Bailey 5:11,13	257:22 260:17
300:1	average 288:16	294:11,23 295:18	267:22 268:4
attached 13:1 182:10	290:20 292:9,23	295:25 296:19	269:13,24 281:2,4
185:10 187:3	298:9	297:6 298:13,22	286:2 288:16 292:7
307:17	avoid 122:17	299:15	292:16,21 294:4
attainment 297:21	award 283:15	bailiwick 65:21	302:8
attempt 79:7 99:21	aware 153:23 154:3	ballot 46:17	bases 177:23 241:10
201:8 212:3 214:21	154:14 158:20	ballpark 54:20	basic 265:25 270:3
214:25 226:12	159:3 172:24 173:6	bank 150:25	287:11 302:15
236:20 253:12	177:7 178:24 187:6	Barreto 4:21 35:11	304:25
267:21	189:12 190:17,21	38:3 41:4,9 90:18	basis 13:14 59:25
attempted 153:21	190:25 191:5,8,13	90:24 91:12 99:21	79:22 84:23 126:12
192:8 261:17	192:2,7,11,13	99:23 104:9 106:1	150:12,17 162:19
267:11,15	197:14 213:22	108:19 109:10,16	225:22 235:21
attempting 201:4	215:14 244:17	110:8,14,22 113:1	236:4,4,9,14 237:22
attention 32:10 53:7	247:3 283:11,13	121:2 122:4 123:12	240:1 249:23
58:10 100:18	288:24 290:15	125:19 126:3,18	266:16 267:3,7

JEFFREY MILYO, PhD

8/26/2014

5

Bayes 5:12	135:24 136:1 141:5	believed 258:13	81:20 82:8,19,24
Bazelon 38:6 41:1	145:12 149:3,7	benefit 118:23	84:9 156:15 253:16
bear 159:12,18 160:7	150:9 152:6,15,23	benefits 44:16 65:20	253:22 254:8
160:11,15	155:7 156:17	65:24 69:22 73:4	284:15
Beaulieu 4:17 118:6	157:14 158:12	154:8,9 158:3	blame 99:7
beep 6:19	159:9 160:4 163:15	279:20 280:8	blanking 9:24
began 14:16 19:4	166:7 168:16	Bernstein 227:9,17	block 265:13 266:7
23:10	171:17 172:1 180:1	best 8:15,17,22 14:9	295:13,21,22
beginning 93:23	183:11 185:22	14:25 15:25 17:11	blurry 125:16
111:10 162:7	187:5 190:14,15,24	19:1 31:15 32:19	board 104:21
183:12 231:10	193:4,5,8,10,15	43:7,13 48:23 54:8	body 45:25
begins 90:17 256:18	196:21,25 200:9,24	56:4 57:7 58:8	Bolsen 4:15 117:4,6
begun 17:8	201:15,23,25 202:4	60:19 61:4 72:14	bolster 116:25
behalf 6:3,8,23,25	202:13,16 205:3,18	74:11 111:19	book 8:7 54:5
7:2 78:20	205:22 206:9 207:6	128:16,18 135:18	born 9:13 92:5 97:13
behavior 65:14,16	208:3 210:18 211:7	136:4 141:17	98:7 114:1
69:22 159:7 244:7	211:12,17,20 212:1	162:17 165:10	borne 156:15
271:4	212:24 213:1,19	253:20 254:7,20	Boston 23:6
belief 115:10,11	219:2 221:3,12	255:3,7,15,17,25	bottom 25:7 87:1,2
118:16 202:8,12	222:14,24 224:19	256:2,4 259:14	219:19 233:12
beliefs 4:12 102:23	225:13,21 227:21	273:10 284:7,14	297:19
103:7 104:1 116:3	230:21 232:18,23	better 15:22 29:11	bought 67:25
117:1,14,23,25	232:25 233:19,22	46:21 102:15 105:9	bounce 105:3
118:1	233:24 234:2,25	216:22	bounced 105:2
believe 7:19 9:10	235:5,14 236:5,12	beyond 21:4 33:12	bounds 84:3 299:18
10:18 14:2,9 15:12	237:17,23,24	62:18 169:23	box 3:10 219:7
15:19 17:21 18:25	238:23 240:1,12,17	175:23 212:10	Branches 1:16 2:2
19:4,8 20:1 21:8,14	241:15 244:12	217:5	6:4
22:16 23:7 24:21	245:5 248:2,6,11,16	bias 91:17 241:2,5	Brazos 308:9
25:13,21,25 29:20	248:19 249:10	biased 91:11	break 8:25 9:1 36:22
29:23 30:11 32:5	250:10,17 251:12	biases 201:17 240:7	36:23 73:25 102:3
33:5,15 35:21 37:4	251:23 252:2,6,9,22	big 54:17 61:7 77:19	104:12 116:13
38:10 41:12 42:10	256:4 258:14,16	bigger 77:6,9,10,12	134:25 135:4
42:14 45:9 47:9,13	259:8 261:4,14	77:13	147:12 160:21,23
51:19,20 52:2,5	262:7,20,25 264:22	billed 59:20,21	161:10 167:13
54:12 56:2,6 59:15	265:2,3,24 266:8,11	billing 59:25	183:6 224:10
60:6 66:10 67:1	266:15,23 267:7,19	birth 9:12 92:3,10,22	230:15 256:25
79:3,6,24 81:18,19	268:22 270:10	92:23 95:2,9,17	257:13,14 299:7
82:21 83:20 86:19	276:2 283:16 285:9	96:2 113:22 157:10	Brennan 2:11
87:14 95:11,19	285:23 286:4,6	157:18	brief 42:7,8,9
97:24 104:2 110:24	287:17,20 288:5	bit 17:23 98:4	bring 19:13
111:4 112:25 121:4	289:13,22,25	black 87:22 261:10	bringing 155:9
121:8,25 122:23	291:11 293:11	274:4,5,6,9 276:14	brings 16:4 19:17
123:17 125:3	296:10,13 297:24	294:13	21:18
126:15 128:5 131:6	298:5 299:6 300:11	blacks 80:3,11 81:14	broad 20:14 31:24,25

JEFFREY MILYO, PhD

8/26/2014

6

39:10 49:18,24 69:24 70:24 106:10 broadcast 47:1 broaden 271:14 broadly 20:3 43:20 43:24 44:12,16 45:12,18,19 63:18 70:14 71:13 84:8 208:17 209:3 263:10 broke 37:1 114:14 broken 155:14,24 browse 137:15 138:19,20,21 Bs 228:25 budget 20:8 46:23 Build 284:19 bulk 201:11 202:10 212:5 Bullock 5:4 180:10 180:14,24 181:16 181:21 182:1,8 183:10,12 184:12 184:23 185:8 186:6 189:13 190:9 Bullock's 186:9 187:7 bunch 228:24 burden 38:7 40:11 41:4 48:24 152:10 152:22 153:25 156:14,15 163:7,21 164:4,13 167:25 232:12 278:12 Burden's 232:13 burdens 65:18,22 66:2,5,9 287:23 burdensome 283:20 283:22 287:17 Bureau 215:3,11 business 290:7 busy 234:4 251:4 button 115:1 buy 67:17 157:15	C C 2:1 3:1 278:6,9,13 278:19 calculated 269:12 calculation 277:8 calculations 133:8 144:7 249:25 250:9 267:22 268:4 270:23 calculus 278:1 279:8 279:14,24 call 7:10 9:17 42:7,8 42:9 74:12,13 123:1 145:22 147:15 180:2 212:13 304:3 called 8:7 41:13 67:24 72:7 191:22 211:23 298:15 calling 30:16 304:15 calls 7:13 83:2 155:3 272:15 273:21 274:18 287:8 290:6 293:9 Caltech/MIT 5:10 campaign 46:11 73:12,15 Campbell 1:21 307:4 308:7 candidate 119:9 candidate's 118:23 candidates 20:24 84:11 cap 59:10,15,16 capable 237:1,14 239:15 capacity 27:2 capital 102:1 154:6 capitalized 79:9 capture 220:11 237:20 captured 238:18,25 captures 48:21 capturing 220:16 car 150:6 151:9,14 152:1 155:13,14,22	155:24 156:1,1 card 173:10 181:19 184:15,21 282:2 care 78:10 careless 279:12 Carnegie 2:4 Carolina's 190:20 191:3,10 carriage 180:16 case 26:20,21 29:19 29:20,22,24 30:1 32:4,8,11,11,16 33:7,18 43:4,12 45:1 58:17,18,22 60:15 61:25 63:6,16 78:12 114:15 115:5 118:14 130:9 172:19,25 185:14 186:4 207:9 231:21 278:5 285:8 288:18 cases 25:22 26:13,15 26:17,19,21 74:16 143:13 147:15 Catalist 166:19 175:2 201:5 206:17,18,21 209:10 214:15 217:10,16 220:11 220:15 221:4 231:4 237:25 238:3,10 240:19 245:10 246:11 259:22 260:1,4,16,19,20,21 261:12,24 262:13 262:18,23 263:3,6 264:24 265:4,9,11 265:15 266:13,22 267:12,17,22 268:4 268:15 269:13,18 269:25 270:10 280:12 Catalist's 260:23 268:10 catchy 57:2 categories 145:8 231:2	categorization 240:19 270:11 categorizations 268:14 category 139:18 Cato 51:23,25 52:1,7 52:12,13,15,18 54:2 Caucus 1:17 2:3 6:5 cause 1:19 caused 286:15 causes 221:2 caution 41:20 172:14 217:6 caveat 136:5 caveats 106:14 135:17 CCES 66:23,25 67:3 67:16,19 68:12 122:18 262:18 Center 2:4,11 certain 15:4 40:16 115:5 144:5,12,23 163:25 168:12,14 168:19,21 183:3 249:11 250:22 251:15 certainly 39:2,5 42:24 49:11 51:22 64:20 84:19 116:11 119:21 140:15 156:2 231:22 299:8 303:19 certainty 20:9 79:21 80:10,19,23 156:13 197:12 249:15 certificate 4:4 157:11 157:18 307:1 Certified 307:4 certify 307:6,14,23 cetera 26:4 42:1 62:7 153:3,20 155:19 222:16 255:9 267:1 chaining 151:5,7,12 151:24 challenge 117:1
--	---	--	---

JEFFREY MILYO, PhD

8/26/2014

7

152:17 chance 135:3 149:8 277:21 Chandler 38:14,15 38:16 164:19 165:6 168:24 233:14 change 100:11,19 117:22,23 125:24 126:13,15 143:5,12 165:1,2 177:9 188:22 198:6 200:6 219:9 235:9 236:1,6 236:11,17 275:19 275:19,20 280:12 280:13,18,22 281:13 305:12 306:4 changed 58:23 125:25 163:14 166:1 174:13 192:24 195:13 196:1 213:13 250:14 changes 4:4 10:16,16 10:18,22 11:6,11 98:18,20,23 99:1,2 99:18,20 113:15 133:22 143:1,2,3,21 144:1 147:10 187:22 200:10 214:18 285:4,15 306:1 307:17,18 changing 117:25,25 Chapman 38:17 148:13,17 149:1 152:7 Chapman's 149:9 152:18 characteristic 139:9 characteristics 109:24 263:20,23 characterization 56:14 77:18 210:18 270:20 283:25 303:23	characterize 58:7 70:23 73:11 74:24 77:18 106:25 226:3 226:4 254:9 characterized 15:22 46:21 226:4 characterizing 73:16 101:17 charge 271:18 272:9 273:13 274:4 charged 307:22 charges 307:20 charging 271:17 272:8 273:12 Charles 190:17 191:1 192:2 check 9:22 92:19 127:19 133:19 139:19 140:11 141:2 145:25 188:1 196:5 206:16 250:24 checking 133:21 Chicago 23:19,25 24:6,9,11,13 choice 50:12,14,15 267:4 choices 149:21 150:15 choose 121:16,22 choosing 107:9 256:6 chose 119:25 chosen 147:1 Christi 1:2 304:3 chronological 37:8,9 chronologically 14:23,24 16:18 17:1 22:5 23:4 chronology 34:1 circumstance 153:7,8 293:12 circumstances 111:20 288:14 citation 188:22 284:22 294:17	cite 79:6 102:25 103:3,18 122:19 154:2,4 159:9 179:3 180:9 181:12 284:18,23 294:10 296:11,14 300:10 cited 91:6 117:5 124:14 128:15 148:10 154:16 177:8 189:17 223:12 227:21 228:6 240:13 283:4 284:21 294:5,18 297:2 cites 115:23 citing 222:8 245:22 citizen 125:13 citizens 5:8 92:6 97:14,22 98:9 114:2 125:8 citizenship 94:13 97:19 159:13 160:13,16 city 291:4,7,18 292:2 civil 1:5,25 2:15 73:9 73:17 ck 118:23 claim 86:22 104:3 177:9 191:5,13 193:2 194:10,11 211:12,20 218:22 237:17 241:12 244:12 claimed 141:5 211:22 250:11 claiming 77:21 177:8 192:18 claims 192:20 194:8 195:22 212:15 clarify 8:15 143:24 classes 49:25 classification 141:4 208:4 270:4 classifications 213:18 classified 65:8 125:19	141:23 142:1,15,16 classify 126:3,6 127:14,15 140:21 141:3,18 Clay 34:16 clean 41:13 113:7 137:5 209:22 212:4 273:10 cleaning 201:3 202:9 202:14 203:9 204:8 cleanup 207:24 208:6 208:10,11,19 clear 11:13 25:25 35:22 44:23 45:6 60:11 61:17 100:20 105:15 126:5 178:2 204:2,4 248:15 275:12 303:15 clearly 226:12 302:17 click 137:15 138:18 clients 6:7,15 clock 42:18 closely 146:21 closer 17:19 coauthor 54:6 coding 146:1 261:9 coefficients 263:15 263:19 coffee 161:11 Cohan 2:7 6:14,14 coin 155:11 197:1 coined 31:17 colleagues 104:20 collecting 18:15 collection 51:24 colloquy 89:4 colon 57:10,11 column 126:20 230:24 231:2,8 246:17,20,22 247:14 combination 209:16 297:11 combinations 208:21 209:1,19 210:6,6
---	---	---	--

JEFFREY MILYO, PhD

8/26/2014

8

237:7 combined 227:15 combining 151:2 223:11 come 30:13 41:5 60:9 79:19 80:2,9,18 81:11 102:13,17 121:8 130:3 167:1 280:5 284:19 303:24 305:17 comes 27:3 62:3 73:13 145:9 173:13 226:15 289:5 comfortable 62:17 99:5 119:3,19 217:4 coming 191:19 comment 45:5 78:21 commentaries 279:18 commentary 54:8 commented 80:22 commenting 121:13 comments 79:24 199:20 commit 263:25 264:6 commits 264:20 committed 191:22 264:16 Committee 2:15 committing 264:10 291:20 common 28:9 communications 130:8 172:16 company 261:22,23 comparable 261:24 262:13 compare 98:15 125:22 131:14 132:6 143:6 187:10 194:20 287:25 compared 80:4,12,17 156:16 227:9 283:21 290:14 comparing 98:25	200:1 203:9 224:25 225:8 237:25 272:21 283:20 comparison 147:9 270:12 272:20 280:20 287:2,18 compensating 58:16 compensation 58:22 competitiveness 20:2 20:4,12,14,18 complete 60:13 112:3 122:5 195:23 251:22 272:5 285:18 290:13 completely 9:8 10:17 30:22 88:25 112:2 121:23 122:14,21 144:6 199:23 203:6 229:21 280:22 completion 23:10 complexity 122:6 complicated 105:14 122:17 185:19 comply 136:2 composed 258:9,23 259:11 compound 273:8 290:19 concept 271:14 concepts 153:10 conceptual 195:12 concern 92:25 110:19 112:5,6,9,11 114:24 115:7,8 120:20 122:11 125:4 136:17 187:2,4 196:2 234:7 235:21 235:25 236:7 240:14,19 259:21 260:3 264:1 300:3 concerning 13:6 90:18 254:16,21 255:4 concerns 76:7 93:11 106:5,25 208:22	211:3,11 213:17 222:25 235:19 245:24 250:5 251:13 268:8,10,12 268:16,23 300:5 301:5 conclude 121:16 300:17 conclusion 79:20 80:3,9,18 81:3 118:20 152:12 281:2,3 conclusions 80:24 81:2,11 123:7 152:12 concomitant 158:3 concrete 121:15 conditional 255:25 conditions 155:19 conduct 80:14,17 106:13,19,23 202:20 268:2 269:15 303:8 conducted 66:15 106:1 173:7 179:13 194:25 202:8,17 268:6 269:22 conducting 202:10 203:2,14 227:6 conducts 201:11 202:6 conference 1:16 2:2 6:3 50:1,2,3,12 56:24 57:16 conferences 52:25 53:12 54:18 confidence 13:16 44:13 98:13 261:9 269:25 270:11 285:18 290:13 confident 22:10 43:9 229:21 234:13 confidential 13:6,8 confine 62:8 conflate 66:24	conflicts 27:12 confound 301:24 confounding 301:25 confronting 116:25 confused 12:8,11 274:21 confusing 90:11 273:8 274:18 290:19 confusion 125:9,11 Congressional 66:17 66:24,25 Connecticut 14:13 connection 32:15 74:3 93:16 105:21 110:9 connections 154:7 consequences 70:20 consider 63:10,19,22 64:3 65:9,11,13,15 65:17 66:1,11 68:17 69:1,6,15 70:2,8,16 71:2 72:22,23 73:1 84:9 87:8 88:16 154:22 155:9,10,12 159:22 280:18 281:6,9 consideration 92:24 140:20 144:20 considered 15:14 48:16 64:12 88:13 88:14 89:25 92:11 93:5 146:9 considering 155:15 237:9 consistency 101:22 consistent 80:7 86:21 99:17 117:2 consists 228:8 constant 216:4,5,8 271:25 constitute 265:4 constitutes 255:18 constraint 132:20,24 constraints 112:15
---	--	---	--

JEFFREY MILYO, PhD

8/26/2014

9

174:2 construed 63:18 71:13 consulting 18:12 Cont'd 3:1 5:1 contacted 32:14,22 111:10 contain 61:24 71:21 135:6 197:20,25 198:11 199:9 210:10 235:12 261:11 265:21 contained 80:15 86:5 106:6,15 107:15 192:19 196:8 205:23 237:7 259:20 260:3 264:22 contains 11:6 12:22 12:24 62:2,9 82:15 85:3 130:16 198:17 263:6 307:18 contemplate 302:18 contemporaneous 61:21 content 67:5 72:9 contention 266:16 context 53:17 63:3,24 76:13 83:9 92:12 111:18 120:10,16 151:11,16,22 157:22 159:20,20 182:15,24 222:24 223:15 236:12 242:2,24 256:5 262:1 281:1 contexts 264:3 continuation 266:23 continue 22:5 30:21 48:10 251:23 252:2 252:6 273:4 continued 19:14 23:9 303:18 continues 142:12 193:1 223:7	continuing 22:9,24 23:4 142:6 193:19 267:5 contract 59:11 contracting 18:17 contracts 18:16 contradiction 177:8 contribute 67:17 contributions 46:21 47:21 control 47:17 296:16 controlling 295:17 296:1 controls 70:22 conversant 71:6 conversation 32:25 33:9,17,20,23,25 34:7 42:17,20 conversations 33:3 42:21 43:1 convicted 221:17,22 conviction 222:2 Cook 4:15 117:6 cooperate 121:17,22 cooperative 66:17,24 66:25 67:16 copies 55:21 164:15 231:11 307:21 copy 9:21 11:4 12:16 13:3 36:17 112:24 113:4 137:4 164:22 165:24 167:1 179:22 181:2 183:9 190:2 Corporation 18:1,3 18:22 Corpus 1:2 304:3 correct 12:14 23:15 23:24 27:16 37:3 43:6 52:4 62:21 63:8 73:21,22 74:4 79:2,8,9,10,11,12 79:14,15,17,18,23 80:5 81:15 88:15 90:1,19 94:19 96:13	96:16,18 97:1,3,6 97:20 98:14 100:3,4 103:1,21 104:8 105:23 107:7,14 110:3 111:13 116:17 117:5,14,17 119:16 120:2,4,11 123:7 126:7,8,10,11 128:8,9,24 130:14 130:15,17,25 131:1 132:2 136:2,12 137:2,9,10,14 138:16 140:14 143:14,18 144:12 146:6 147:17,18 148:14 151:18 155:2,14 156:22 157:12 160:2 161:18,19 168:6 173:3 175:4,11,13 175:21 176:6,20 178:2 179:11,15,25 180:6,11,22 181:19 181:23 182:3,6,10 183:16 184:8,15,24 185:3,11 187:20 189:4,9 192:3 193:3 193:4,21 196:3,14 200:8 202:5,22 203:14,16 205:13 206:25 207:2,17 209:25 211:25 212:23 214:11,12 214:14 216:17,19 216:21 217:11,18 217:22 218:14,21 220:17 221:11 222:13 223:14 224:23 225:13 226:2,11 227:10,20 227:24 231:6 233:3 234:17 235:10 236:17 239:23 241:19 242:12 245:4 246:12,13,15	247:8,13,18,23 248:2,3,9,11,14,18 248:24 249:9 250:19 252:16 254:17 255:13 256:3,11,20 257:5 257:19,23 258:10 258:15,24 259:3,12 259:17,19 260:2,5 261:1,13 262:24 263:4,17,25 264:9 264:21 265:1,2,13 265:14,19,20,23 266:11,14 267:8 268:11,20 269:1,20 270:1 277:8,13 279:3,5,6,15 280:14 280:16 281:21 282:5,8,12,16,20 283:15,23 284:10 284:16,17 285:5 286:17 293:19 294:11 295:19 296:3,4,15 301:11 301:15,16,19 306:22 307:7 corrected 161:20,25 163:6,13 164:7,12 164:18,22,25 165:6 167:14 196:16 200:22 251:9 252:1 275:11 correction 92:1 162:4 165:3 corrections 9:23 correctly 195:24 263:17 267:24 correlated 239:22 241:8,13 266:14,19 267:8 correlation 84:12 240:2 cost 154:20 156:21 156:22 157:2,3,11 157:19 158:2,7
---	---	--	---

JEFFREY MILYO, PhD

8/26/2014

10

277:7 279:3 280:13 285:16 286:9,14,14 286:15,20,21,22 287:5,6 288:10,11 288:19,20 289:6 292:10,11 costs 44:16 65:20,24 69:22 73:4 149:4 150:21 153:1,18,24 154:24 156:20 157:1 279:20 280:8 280:22 281:14 285:20 286:2 288:1 288:23 289:1,14 292:22,25 293:2 counsel 36:20 130:8 130:10 200:16 219:14 257:12 269:7 302:4,7,23,25 303:11,20 307:23 count 126:16 203:15 204:1,14 counting 66:18 country 92:6 97:13 98:8 114:1 county 249:3 307:3 county-Level 4:23 couple 17:6 18:8 35:7 38:8,21,24 40:13 49:25 104:15 105:2 128:6 137:6 143:22 course 47:3 64:19,20 64:24 75:10,14 courses 45:19 282:15 282:17,19 court 1:1 8:4,21 13:4 26:4,9,12,24 27:1 28:16,21,24 29:1,4 29:6,7,16 30:17 45:21 303:4 court's 29:25 courtesy 302:23 303:12 304:2 cover 20:15 39:11 41:2 162:15,15	166:11,12 covered 147:4 covers 71:18 coworkers 155:19 CPS 227:15,18 CRCB 308:8 create 133:4 139:13 created 130:14 131:3 132:16 133:10 137:6 203:5 creating 199:16 creation 144:3 credibility 276:5 critical 201:14 212:3 criticism 90:23 106:11 107:17 108:3,7,10,18 109:3 109:6,15,21 110:2,5 110:6,13,20 111:21 223:17 260:18 266:5 277:25 criticisms 105:25 106:4,17 107:3,11 107:13,18,20,23 156:9 195:11 198:7 201:16 206:9 208:3 243:12 253:9,13 259:19 260:2 261:11 criticize 106:8,12 107:5 123:5,12 124:5 147:6 148:16 criticized 107:25 201:13 243:14 261:14 criticizing 148:25 199:2 critique 183:2 210:10 210:12 260:15,25 265:4 critiques 170:6,7 251:9 260:23 264:24 265:3,8,10 265:11,12,15,16,22 cross 282:17	crossed 234:3 crosstalk 158:23,25 crowd 54:19 CRR 308:7 crunching 105:20 CSR 1:21 current 56:7 74:25 75:14 112:7 188:4 192:20 196:14 213:22 214:4 226:21 245:19,25 251:10 252:22 currently 82:3 100:24 140:4 188:12 195:22 219:3,5 curriculum 233:16 cut 193:16 Cutler 2:20 CV 12:24,25 13:2,3 13:12,14 15:2 23:11 25:5 45:25 46:4 47:3,8 48:21,22 49:5,7,14,15,17,21 49:22 50:4 65:4 70:1 72:15 235:4 CVAP 123:13,15,16 123:19,20 124:5,6 125:2 227:3	85:20 86:11 92:13 123:13,16,19,20 126:19 127:19 129:2,18,19,24,25 130:4,18,25 131:4 137:2,5,15 138:20 138:21 140:1 147:15,17 172:3,5 173:15,17,22,23 174:11,16,18,22 175:3,5,6,17 176:8 176:9,12,13 177:23 192:23 193:25 194:4,6,14,14 195:19,23 196:17 196:23 197:10 201:5 206:17,18,21 206:24 207:24 208:6,10,11,19 209:10 212:4 214:10,14 221:1 228:2 235:12,22,24 237:25 238:3,10,17 253:17 259:20 260:21 262:19,21 262:22 263:4,5 264:4 265:9 268:1,6 268:15 270:10 283:7 295:3 300:2 301:22 database 79:11,13 173:2 176:18,24 177:5 178:11,14,17 178:24 179:5,9,13 180:22,22 181:11 183:15 184:1,7 185:25 189:15 190:10,14,19 191:2 191:9 192:9 197:10 198:20 199:13 201:4 202:9,22 203:2,13,25 204:13 205:6 206:10 208:14 209:22,22 215:9 222:12,22
---	--	---	---

JEFFREY MILYO, PhD

8/26/2014

11

228:8 251:23 database-matching 193:19 194:9 200:25 201:24 205:20 206:7 208:12 236:7 239:1 databases 79:16 176:24 178:19,22 181:11 183:15 184:1,8 206:24 209:18,20 datas 299:25 dataset 35:10 132:3,8 137:11 147:20 148:3 172:7 177:17 datasets 137:4 172:20 date 9:12,22,24 11:12 11:15 14:14 32:17 32:18,21 36:9,13 43:8 58:17 141:2 173:19 206:23 207:1,15,19 247:10 248:10 307:16 dating 21:8 David 11:2 34:14 Davidson 38:14,14 38:16 164:19,21 165:6,9 166:7 168:24 169:19 170:14 233:14 Davidson's 165:20,24 233:16,17 day 142:9 168:9,9 189:18 224:5 229:17 290:23,25 292:3 308:3 days 37:12 38:22,24 39:2 128:7 307:16 DC 2:21 3:5 52:2 dead 217:11,17 218:6 218:12,16,18 220:12 221:5,7 deadline 174:4 deadwood 182:12,19	185:13,17,21,22,24 186:3,10,19,23 216:3,13 222:6,12 222:16,22 223:4,9 223:14,23 224:14 224:18 226:1,6,10 226:13 228:13 248:3,4,9,12 deal 77:6,9,10,12,13 77:19 116:1 124:15 202:6 dealing 48:19 49:2 dealt 49:20 50:19 death 215:15,22 debatable 123:21 debate 77:16,17 decades 17:6 20:7 46:1 279:17 deceased 202:9,21 203:1,13,25 204:12 205:6 214:21,25 215:4,6,11,23 216:2 216:11 218:20 219:13 220:10,11 220:16,24 221:10 Dechert 1:23 2:4,7 decide 27:6 274:7 decided 271:16,19 272:7,10 273:3,11 273:14 decides 274:3 decision 27:14 declaration 4:8,9,10 5:5 10:10,12 25:6 60:7,19,25 61:22 231:16,17,21 232:11 233:14,21 234:22,23 235:1,3 256:18 declarations 231:12 decrease 156:15 decreases 294:24 deemed 13:8 deeply 305:20 defendants 1:8 3:9	3:14 6:17 defense 18:12 defined 248:6 definitely 57:19 definition 84:17 153:14,15 204:20 247:2,11 276:13 definitive 172:11 217:4 definitively 108:2 220:13 290:9 degree 79:20 80:10 80:19,22 156:12 282:4,7,9 Delbert 5:7 deleted 100:2,16 deletion 99:20 Dellheim 3:3 6:10,10 demanding 197:2,3 demonstrate 226:7 demonstrated 279:7 287:16 denied 23:22,23 24:10 denominator 244:18 249:24 250:9,17 deny 304:25 department 3:3 22:22 51:8 64:22,24 173:1 221:16 282:13 depend 63:24 151:11 depended 118:22 Depending 63:3 depends 70:22 151:16,22 179:12 207:3 242:24 288:14 depo 304:15 deponent 307:15 deposed 7:16,21 24:19 25:14,20,24 26:8,11 deposition 1:9,14 4:19 34:21,23 37:3	37:11 42:5,23 43:1 113:5 128:2 231:11 302:15 303:8,18 304:4 305:24 306:21 307:6,10,19 307:21 depositions 302:18 Dept 3:20 depth 119:20 derived 196:12 201:18 226:18 describe 51:21 53:20 63:1 74:12 81:6 93:17,18,18 94:2 96:18 137:21 150:22 156:14 157:18 177:18 182:7,13 185:7,14 185:24 192:18 193:2 210:23 213:7 218:6 222:17 271:4 271:8,10 281:15 292:18 described 25:23 26:14,18,22 62:19 96:7 97:12 98:6 112:2 113:11,20 128:21 129:20 131:9,21 132:17 134:2 135:13 137:12 139:23 250:15 256:2,4 describes 202:13 271:5 282:2 285:3 describing 63:4 65:20 197:12 description 4:7 5:1 41:21,23 93:21,22 96:4 99:18 174:20 226:20 271:7 299:5 302:2 descriptions 63:17 195:7 deservedly 283:15 design 68:8
--	--	---	---

JEFFREY MILYO, PhD

8/26/2014

12

designated 13:9 78:6 83:4 85:16 217:1 266:22 276:11	270:5,7 276:15 281:18 284:6 293:18	discipline 68:20,23 69:12 242:22 279:15	disproportionally 80:4 258:9
designation 265:18	differences 85:22,23	discount 258:12	disproportionately 87:21 258:23
designed 68:12 116:25	85:23 213:14 238:17 298:6,8	discourage 276:18 277:1	259:11
designs 67:19	different 20:15 28:9	discrimination 73:2 81:13,20 82:8,19,24	dispute 26:3,8,11 84:24 150:11,12,13
desire 88:24 119:8 254:22 255:5 256:9 256:13 258:2	45:13,15 63:11,16 67:17 69:25 70:1,3 70:9 84:9,10,11 93:9,9,10 95:13 97:8 146:1,13 148:12 149:21 150:15 153:10 154:8,11,23 167:19 170:1 172:20 173:13 189:5 196:2 203:4,18,20 204:6 229:5 240:22 243:12,12 259:4 279:21 294:13 296:10,21 297:1 298:22 299:11	discriminatory 86:17 87:5,17 88:9 89:7 89:16	150:17 151:23 152:4 160:5
desires 150:24	destinations 150:24	discuss 69:3 104:20 148:20 157:22 176:2,4 186:3,5 222:5 280:3 288:6 302:10	disputed 150:18
detail 39:14,16,24 40:3,4,5,17,18,25 44:19 62:7 116:4 186:7 234:6 243:23 250:13	details 31:1 39:13 39:23 40:1 60:6 72:21	discussant 55:23	disputes 25:9 152:6
detailed 31:1 39:13 39:23 40:1 60:6 72:21	details 33:2 41:16,22 59:12 226:19 249:14	discussed 56:2 80:21 86:19 105:9 160:4 190:12 241:12 260:21 279:16 292:18	disputing 151:12
determinant 278:3	differential 149:21 150:14 270:24	discussing 62:17 92:12 161:15 214:10	disqualified 27:25 28:1
determinants 70:20 278:20,21 280:9	differently 82:13 168:10	discussion 33:4,5 54:4 66:5 69:21 71:22 73:4 90:18 147:13 160:25 167:6 183:20 218:2 219:18 223:6 238:24 268:22 302:11	disseminate 55:18
determination 255:12,18 271:1	difficult 21:21 29:18 30:25 37:7 82:5 92:16 164:16 168:11 181:14 182:23	dishonestly 119:12	disseminated 55:16 57:24
determinations 99:12	digits 283:2 285:5	disparities 236:22 240:9 253:14 263:9 265:18 267:13,18 268:19,20 269:23	dissertation 67:10
determine 233:7 251:8 257:21 293:1	dilatory 302:8,13	disparity 175:2 210:16,23 211:8,18 213:8,16 228:18 229:2,13 230:10,19 231:2,5,8 236:21 245:7 246:6,9	distance 149:19 150:7
determined 256:8 269:11	direct 305:1	disposed 26:3	distant 286:3
develop 108:15 131:18	directing 127:4		distinction 177:20
developed 131:16	direction 90:4 155:20 156:5 216:7		distinguish 77:1
development 225:12	directly 85:24 133:9 150:10 165:15 218:24 219:6		distracted 53:6
devoted 34:3 60:15	disability 94:7,12 249:12 250:1,8		distributed 55:12,14
diagram 292:7,21 295:4 299:13	disagree 300:21 303:23		district 1:1,1 26:4
diagrams 234:4			divide 158:7
dialogue 275:16			DIVISION 1:2
dices 212:21			DLS 79:11
difference 80:7 96:14			doctoral 14:17,18 18:4
			document 9:17 11:1 11:8 13:5 30:2,3 31:1,3 58:11 62:12 62:12 98:15,16,16 98:22 125:23 127:21,25 130:12 130:14 131:2,5,6,7 131:18,20 132:16 132:20 133:9,15 134:6,12,19 135:11 137:24 138:1,2,3,10 157:24 169:22 179:21 190:1 218:8 220:5 234:9 254:13

JEFFREY MILYO, PhD

8/26/2014

13

255:1 256:23 documents 9:16 61:23 128:6,10,11 128:20,25 129:16 136:5,20,22,25 156:20 157:2 159:21 197:8 293:7 documents-relied-... 41:14 Doggett 3:14 7:1,1 dogs 305:13 doing 8:18 13:23 16:13 18:2 19:25 20:9 21:10 39:12 47:4 61:22 69:19 77:24 93:14 131:23 148:5 158:2,12 174:19 177:18 191:25 205:4 218:19 219:12 220:9,15,22 221:9 273:10 Dorr 2:20 dots 291:23 doubt 303:18 doubts 93:11 Downs 278:2 Downsian 279:14,19 279:22,24 280:21 dozens 291:4,6 DPS 175:8,9,11,18 176:6,11 195:2,20 195:23 246:2 251:22 291:23 Dr 7:7 40:16 106:18 106:23 110:8,9,22 126:18,19 128:3 148:16 149:9 152:7 152:18 161:21,24 162:17 163:1,7,12 164:13,19 165:2,6 165:20,24 167:7,9 167:15,25 168:24 169:19 170:14 171:16,23,24 172:3	172:7 173:7 174:10 174:17 175:10,17 176:4,14 179:20 185:8,8 187:6,7 189:12,13,25 190:9 190:9,17 191:1 192:2 194:6,18,24 195:1,4,18,22,25 196:8,12,13,17,23 197:14,22 198:2,12 198:19 199:12 200:17,20,24 201:2 201:23 202:3,25 203:12 205:18 206:6 207:25 208:20 209:2,15 210:7,15,21 211:5,8 211:16,22 213:12 214:11 217:9,21 218:5,17 220:13 228:17,23 229:1,10 232:12,13,20 233:17,21 234:17 235:2 236:23,25 237:5,14 239:2,15 240:8,9 241:1 244:15,25 249:24 250:7,25 251:7,22 251:25 252:24 253:13 261:7 264:20,25 265:17 265:22 267:22 268:4,18 269:12,19 269:22 270:13 274:23 278:12,13 291:14,17,22 303:24 dramatic 280:13,19 280:25 281:9,11 dramatically 204:6 drawing 126:24 drink 34:25 driver's 94:5 131:9 133:3 137:22 138:15 139:5,16	141:2 142:13,18 173:1 181:18 184:14,20 192:9 290:1,3 drivers 102:24 drop 94:9 95:11 drop-off 122:23 dropped 123:3 147:14 Drs 108:19 109:16 110:14,22 121:2 123:12 148:13,25 182:8 183:10,12 Druckman 4:15 117:6 duces 128:2,7 131:21 132:18 135:8,14 137:13 due 186:23 222:2 285:15 duly 1:18 7:4 307:9 dump 197:8 dumped 197:13 durable 159:6 <hr/> E <hr/> E 2:1,1 3:1,1 4:1,6 26:7 87:4,12 e-mail 130:3 earlier 36:9 39:2 57:25 63:5 90:21 91:7 104:16 161:4,7 248:6 early 46:13 47:8,18 48:4,5,15,15,19,25 50:22 163:15 easier 10:21 16:7,19 17:12 40:20 41:6 45:24 139:1 165:19 188:10 easily 41:5 easy 7:9 121:21,25 ecological 245:9 246:10 263:7,11,22 263:25 264:1,2,6,6	264:10,13,15,20,21 265:1,5,10,22 266:4 economic 46:18 71:5 economics 51:9 64:21 65:21 76:25 281:22 281:23 282:14 economist 45:2,7 63:7 281:21 economy 62:21 63:11 71:1 edge 17:20 edited 47:21 178:2 editing 133:22 178:3 200:10 editorialization 217:22 educated 258:8,22 259:10 education 2:19 258:18 284:9 292:25 293:2 295:17 296:1,16 298:1,3 educational 297:21 effect 5:10 107:12 108:3 111:22 118:21 176:22 177:13,21 178:5,7 180:20 181:9 183:13,24 236:21 238:21 253:12 267:11,16 283:10 294:6,13 295:19 296:2,15 299:16 301:10 effects 4:22 5:12,14 43:20,22 44:8,12 45:12,15,22 46:23 49:9 50:25 51:18 53:4 56:20 57:12 58:1 62:22 63:12 87:24 88:3,10,15 89:17,25 154:11 177:16 179:1 191:18 259:21
---	---	--	---

JEFFREY MILYO, PhD

8/26/2014

14

260:4 263:8 264:8 268:9 270:24 282:24 283:1,5,8,9 284:25 285:4,11 295:6 301:6 effort 149:15 150:4 245:1 egregious 181:22,25 182:2 184:23 185:3 185:6,8 187:4,5 EIC 152:11 156:21 156:22 157:2,4,12 157:15,20,25 158:6 158:10 290:22 291:7,18,24 292:4 293:1,8 EICs 290:15 eight 109:4 255:21 either 18:23 20:19 62:11 63:17 84:10 88:4 92:16 116:25 129:18 143:23 144:8 165:5 172:7 196:25 244:10 269:7 273:1 293:16 294:2 elasticity 281:12,14 281:15 election 4:17 25:9 66:17 71:3,8,11,12 118:14,15 207:3,5 271:2,17,19,21 272:8,10,13 273:12 273:14,18 274:5,7 274:10,11,13,16 275:14,22 276:17 276:25 282:21 285:2 290:23,25 291:1 292:3 301:21 elections 20:2,5,13 158:4,8 207:7,14,21 electoral 284:18,24 element 237:8,22 elements 237:2 eligibility 94:9 98:14	159:14 160:13,16 eligible 87:22 91:10 91:13 99:24 124:7 125:12 182:10 185:10 186:2 187:3 192:17 193:6,20 194:12 247:4 249:13 255:8 eliminate 240:8 elimination 268:17 eliminations 268:19 Emily 4:17 emphasis 28:13 emphasized 201:2 emphasizing 119:18 empirical 5:1,12,14 62:22 63:12 65:5,8 93:13 145:24 299:24 empirically 69:23 employed 91:12 166:18 211:15 258:5 280:3 307:24 employment 14:15 14:20 15:5,14 16:10 16:23 17:14,15 18:23,24 21:24 22:2 22:16,25 23:9,18 endeavor 151:1 ended 124:20 ends 88:5 endurance 8:24 engage 215:9 engages 74:15 215:19 enormous 175:23 entailed 288:10,11,19 288:20 enter 6:20 entered 133:8 entire 29:20 101:23 136:24 165:5 191:17 218:8 220:5 233:1 234:8 entirely 60:11 86:21 152:8,19 157:11,19	entirety 161:21 162:10 163:7,20 164:13,19 165:7,20 166:15 167:9,15 168:1,5,8,15,19,20 168:22,25 171:16 171:25 198:16 224:2 231:13,19 232:12,16,19 233:13,17,20,23,25 234:23 235:2 260:14 entrepreneurs 154:12 envision 63:3 equal 300:24 equally 12:10 equations 299:4 error 173:11 181:22 181:25 182:2,7 184:23 185:3,6,8 187:5 223:2 226:22 227:2 269:18 270:9 299:18 errors 201:17 216:6 266:22 267:8 270:4 eschew 241:21,24 242:7 eschews 241:18,25 242:10 especially 76:25 146:2 Esq 2:3,7,10,20 3:2,3 3:9,14 essentially 161:6 established 123:5 279:2 estimate 60:7,14,19 61:4 91:9,11,25 123:25 162:20 193:11,15 197:15 197:22 198:2,13 205:7 222:11,17,21 223:22 224:14,16 224:17,20,22,24	225:7 226:1,3,9,12 227:8 236:20 245:20,25 251:25 253:12,20 254:7,20 255:3,7,15,17,21,23 256:3,5,7 258:5 259:15 260:1,16,24 261:15,18 263:8,13 263:23 264:8 265:18 266:13 267:12,17 268:10 269:23,25 289:6 295:3 299:23 estimated 198:18 200:5 223:8 267:24 283:19 284:6,7,9 301:7 estimates 145:6 175:2 200:1 236:22 240:14 245:9,10 246:11,11 253:23 255:24 256:6 259:22 260:5 261:12,21 262:12 262:14,20 264:25 265:4,9,12,12,16 266:3 267:23,25 268:5 269:12,13,18 estimating 5:12 47:11 57:12 177:16 211:15 256:19 257:4 et 1:3,7 2:19 3:9 26:4 42:1 62:7 153:3,20 155:19 222:16 227:9,17 255:9 267:1 ethics 46:23 ethnic 70:3,10,18 73:20 82:24 258:9 258:23 259:11 268:14 ethnicity 94:11 126:4 126:5 127:16,17 208:5 213:14
--	--	--	---

JEFFREY MILYO, PhD

8/26/2014

15

239:22 240:20 241:8 262:15 267:24 269:19 evaluate 69:23 178:10 evaluating 65:24 evaluation 4:11 45:3 45:8,11 46:22 63:8 64:7 71:1 99:9 117:13 events 166:5 eventually 187:7,12 evidence 77:7,10 80:6 81:2,9 83:9 84:19 85:21 86:21 87:23 121:15 209:5 237:24 261:9 294:12 298:5 evidenced 270:12 exact 32:17 37:8,9 41:11 49:19 71:22 84:1 91:25 132:14 197:16 291:9 exactly 21:2,21 27:17 27:23 28:4,7,14,17 28:22 29:2 32:23 34:10 47:23 50:5,13 60:20 61:2,21 63:25 90:21 91:6 107:8 113:18 147:25 178:17 181:15 185:15,16 188:2 209:8 230:6 251:2,5 285:6 289:22 exaggerate 150:21 examination 4:2 7:5 161:1 184:6 examine 85:4 178:5 194:14 250:12 examined 46:8 83:8 176:11,13 229:12 234:5 243:22 288:22 examines 245:12 examining 149:18	150:7 176:22 177:14 178:5 180:20 181:10 183:14,25 188:6 243:25 example 44:7 79:8 115:23 130:22 131:25 137:20 141:3 144:24 150:25 151:15,18 154:9,19 155:1,12 159:24 174:23 199:24 225:3 235:14,16,18 236:10 291:8 examples 44:5,10,14 44:18,20,22 47:2 105:10 119:23,25 155:9 240:7 241:1 282:22 exceeds 227:19 Excellent 23:12 exciting 17:19 exclude 165:18 250:7 excluded 98:6,11 excludes 246:14 247:12,15,17 248:13 249:25 250:18 excluding 164:11 165:19 231:3 232:17,20 233:16 235:4 excuse 173:7 238:12 257:12 294:9 exempt 249:12 exemption 94:7 249:13 250:1,8 exercise 132:15 203:14 227:6 exert 33:18 exhibit 9:18 10:2,3,8 10:13,14,23,23,24 11:4,22 12:1,13,22 12:23 13:1 78:13	103:13,15 112:18 112:20 113:13 117:7 118:4 126:23 127:1,22,24 129:4,6 130:5,13 134:3,3 135:3,24 137:1 161:17 166:3 179:18,19 182:13 184:12 188:6 189:23,24 190:1 192:15 230:1,2 237:5 253:25 254:10,12 258:15 259:24 271:21 272:13 273:18 284:2,4 294:20,21 296:5 298:17,19 300:7,9,13,14 exhibiting 258:18 exhibits 5:1 307:21 exist 169:12 171:2 198:19 199:12 245:8 269:18 existed 175:2 283:6 existence 149:4 210:16 exists 120:6,7 179:9 210:24 228:19 expansive 145:10 expectation 123:22 171:6 expected 122:10 220:24 266:13 expects 93:13 expenditures 46:17 experience 45:14 81:25 85:10 122:18 152:10,21 expert 4:18 25:8 26:2 26:7,15,19,25 27:21 28:2,16,18 33:7,11 43:4,10 45:4 59:1,5 62:4 63:19,22 65:9 65:11,13,15,17 66:1 66:11 68:17 69:1,6	69:15 70:2,8,17,23 71:2 73:1 74:21 77:24 78:5,12,20 83:3,9,20 84:18 85:5,15 86:5 87:3 192:25 200:2 229:18 253:11 289:4 298:6 expert's 216:25 expertise 43:17 44:25 45:3,7 62:20 63:1,6 63:7,15,21 66:6,7 66:14 69:5,9,10,24 70:13,24 73:5,7 189:1 experts 37:24,25 38:1 38:20 41:5 79:2 80:1,23 81:8 85:22 150:20 155:8 165:8 172:20 192:18,21 193:5,18 194:9 197:9 270:17,20 278:5 289:13 expiration 141:2 248:11 expired 231:5 247:13 247:18,22,25 explain 123:10 126:12 explained 161:7 175:25 explaining 150:23 explanation 173:15 explanations 280:6 explicitly 88:12 explored 213:21 express 106:22 expressed 84:4 106:20 169:23 268:9 287:13 expression 151:4 expressly 95:7,15 extant 301:7 extension 174:4,7,9 extensive 203:12,17
---	--	--	--

JEFFREY MILYO, PhD

8/26/2014

16

203:24 204:12,18 204:22 extent 65:23 69:3 71:5 73:3 83:2 85:15 86:19 110:16 113:12 114:8 119:3 130:7 134:5,11 166:24 167:2 174:10 186:16 195:4 198:6 199:20 201:16 203:7 217:2 245:23 252:25 253:7 266:24 276:10 278:5 287:16 extents 76:11 external 176:24 180:22 181:11 183:15 184:1,7 eyes 125:16 234:2,3 Ezra 2:3 6:2 Ezra.Rosenberg@... 2:6	115:10 116:3,16,19 267:7 faculty 23:7 failed 122:5 284:19 failure 186:9,18,23 251:21 fair 10:13 11:23 48:2 48:13 73:11 101:18 112:12 191:12,16 253:19 291:25 fairly 15:4 43:8 63:14 101:11,14,14 133:7 172:10 282:23 fall 14:16 15:12 16:4 18:25 19:4,8 21:13 22:9,13 285:24 fallacy 263:25 264:1 264:6,10,16,20 false 239:4 240:3 241:7,12 familiar 54:24 57:14 63:9 68:23 166:6 190:4 191:17 208:13 229:10 242:25 243:24 244:4,5,14 283:16 285:19,25 290:24 familiarity 69:5 244:16 287:13 family 258:17 far 8:19 111:23 292:1 Faransso 2:20 6:22 6:22 304:16 305:21 fatally 186:11,12,19 186:22 fault 160:1,7,9 Fax 3:6,17 308:10 feasibility 18:15 federal 1:24 20:8 25:9 26:4,8,12 79:16 fee 58:25 273:4,19 fellow 38:13 52:6,6 fellowship 15:13,17 15:20,24 18:24	19:21 22:19 23:5 fellowships 16:8,15 16:21 17:13 21:20 felonies 221:17,22 felony 222:2 fewer 79:21 290:16 291:10 field 64:12 173:10 fields 69:25 70:15 81:25 85:11 149:14 150:3 209:19 210:6 210:8 fifth 87:11 300:14 figure 125:24,25 126:1 194:2,8 196:11 225:7,22,25 226:18,23,24,25 246:14,16,17 247:12 248:13 291:22 299:3,3,19 figured 126:17 figures 124:16 195:5 196:6 224:25 240:16 244:25 257:23 258:4 295:10 file 41:11,14 113:1 128:13 136:6,9,14 137:2 213:25 214:6 215:16,22 filed 163:15 files 172:9,21 174:16 174:18,22 192:12 final 41:13 87:12 99:8 100:12 137:5 197:15,22 198:2,12 198:18 finance 46:11 73:12 73:15 financially 308:1 find 22:7 115:20 123:9 132:12 134:20 143:10 146:25 205:24 209:7 227:17 283:8	297:20,20 finding 29:1 152:18 152:19 210:23 211:24 212:13 213:7 230:12 231:1 231:7 240:15 252:13,20 253:1 285:20 286:1 findings 29:9,21 87:10,15 89:6 210:15,19 finds 199:12 211:12 294:23 fine 7:12 114:12 160:22 167:23 183:4 204:22 206:1 208:18 226:16 257:3 300:6 finish 48:8 88:18,20 88:23 89:10 finished 48:7 89:19 firm 18:12 74:13,14 308:8 first 7:4,15 9:17 15:13 32:14 33:20 39:3,6 48:7,9 53:3,4 58:10,14 60:10 61:13,20 73:17 86:25 87:8 88:17 90:25 91:3 111:10 124:15 126:25 130:13,22 138:13 139:1 149:25 161:14,20 173:3 193:16 199:22 203:11 212:17 224:23 225:6 231:16 234:24 296:6 firsthand 81:22,23 83:6 85:19 221:24 fit 114:16 fits 102:22 103:7 104:1,6 120:9 five 189:9
--	--	--	---

JEFFREY MILYO, PhD

8/26/2014

17

fixed 18:16 278:6,10 278:14 flag 220:11 238:8,13 flagged 231:4 238:3 flags 239:4 248:14,17 249:7 flat 58:25 60:2,5,10 flawed 186:11,12,19 186:23 flight 269:8 Floor 2:12 fly 178:3 focus 48:4,14,17 53:3 53:4 57:19 58:8 69:19 70:7 73:6 108:25 116:24 117:2 143:13 147:9 259:5,7 focused 51:17,19 56:20 116:15 211:7 focusing 258:19 278:13 folks 82:13 follow 213:5 281:4 following 141:17 254:23 255:5 follows 7:4 267:1 280:11 footnote 103:1,3,18 115:21,22 122:3 123:8 154:17 185:23 284:22 294:15,16,17 300:13,14,20 footnoted 124:10 266:17 268:25 269:4 footnotes 128:15 146:10 force 299:20,20 forced 36:14 forces 300:2 foregoing 306:21 307:6 forgetting 254:1	forgive 15:7 209:6 forgot 103:16 forgotten 88:19 form 53:20 76:18 78:4 82:10 83:1 85:15 123:25 149:22 155:3 157:13,21 178:15 189:3 194:3 198:3 198:21 199:14 204:15 210:1 216:24 229:15 237:15 239:16 251:17 269:2 271:23 272:14 273:20 274:17 286:13,24 287:7,19 288:2 289:8,10,11 289:21 290:4,5,12 290:18 292:5,13,20 293:9 formal 61:3 62:16 235:9 236:1,11,16 formed 139:18 forming 118:2 forms 18:16 115:6 120:23 297:11 formulated 272:17 forth 115:19 131:8 131:19 134:18 252:1 forthcoming 110:25 132:22 201:17 206:11 252:3 forward 63:2,16 found 28:24 152:7 181:17 184:13 188:15 194:18,24 195:18 198:19 211:8 216:12 227:18 283:17 284:12 285:12 299:15 Foundation 75:8,10 75:12,17,22,25	four 87:8 88:17 232:5 232:8 framework 279:2,13 279:25 280:1,2,7 286:23 Francisco 19:5,14 frankly 30:14 134:20 fraud 4:17 71:3,9,11 71:12,24 118:14,15 118:17,18,22 free 88:21 113:2 130:10 302:20 Freeman 3:2 4:3 6:8 6:8 160:20,22 161:2 161:4 164:4,7,10,11 167:4,7 172:24 175:21 179:17,20 183:8,18,23 188:5 188:10 189:22,25 194:5 198:10,23 199:4,21 200:18 201:19,21 204:9,11 204:21 206:1,4 210:4 217:7,25 218:3 219:23 224:7 224:13 229:23,25 230:3,17 234:21 253:24 254:6,11,13 257:11,14,16 260:9 260:13 269:6 271:24 272:16,22 272:25 273:9 274:2 274:20 275:3,11,21 276:3,16 284:1,5 287:1,11,22 288:4,8 288:16,24 289:8,15 290:10,20 292:8,16 292:24 293:13 294:19,22 298:20 300:8 302:7,12 303:6 304:5,17,20 304:23 305:4,9,19 French 118:10 frequently 261:8 279:4	friend 154:20 friends 153:2,20 154:1,25 155:18 front 11:25 41:6 58:11 78:14 97:25 98:24 100:13 102:13 138:7 161:17 169:5 170:19 201:9 218:24 219:6,8 246:5 full 97:9 128:13 305:16 307:6 full-time 23:9 fully 303:25 fun 305:16 function 138:19 fund 2:19 54:6 271:16 272:7 273:11 274:4 funded 15:24 16:8,15 16:22 17:13 18:23 21:6 further 99:20 126:5 185:16 206:16 212:8 307:14,23 308:1 future 17:19 18:18 62:1,8 169:25 fuzzy 15:8 20:7
G			
game 280:5 garbage-in/garbag... 265:25 gathered 231:14 general 3:10 32:18 33:4,5 39:12 41:21 41:23 53:15 56:15 93:12 102:19 114:22,24 115:3,7,8 115:12,18 120:5,12 120:13 151:20 152:4 154:6,14 176:18 179:8			

JEFFREY MILYO, PhD

8/26/2014

18

260:20 279:20 282:21 299:10 General's 12:12 13:9 42:22 172:17 generally 56:10 64:12 72:23 76:16 151:24 243:4,18 291:3 geographer 167:16 geography 68:18,20 68:24 69:2,7,12,16 Georgia 5:3 181:18 182:9 184:14 185:10 190:15 Georgia's 189:15 190:11 Gerald 167:15 171:16,24 233:21 291:14,17 Gerber 180:15 getting 21:7,9 41:16 52:25 53:11 65:19 88:11 142:8 238:16 Ghitza 166:15 234:22 260:1,3,15,18 261:7 268:13 Ghitza's 259:18,19 259:23 270:13 gist 117:12 118:11 give 10:22 30:25 37:7 41:21,21 44:5 61:24 93:1,9 95:9 97:9 108:1 109:14 113:22,23 141:20 176:1 204:19 219:14 302:3,24 given 11:8 18:20 41:24 44:21 51:3,5 55:23 70:5 87:7 97:18 107:2 108:1 108:25 121:12 124:24 141:23 145:14 196:1,15 204:2,4,6 212:2 220:24 241:23	251:21 255:22 266:2 276:13 303:8 307:12 gives 222:24 giving 16:14 94:20 116:21 glance 37:13 184:10 glanced 30:4,20 31:2 31:7 38:21 62:13 149:10 165:17 234:11 glancing 24:23 30:2,3 30:7 39:11 go 10:16 16:17 17:1 21:4 25:5 30:23,25 31:5 33:2 36:10,14 44:19 59:12 82:4 84:17 87:10 90:9,14 99:12 101:2 102:18 113:7 127:18 128:14 130:9 131:13 132:11 139:11 141:19 145:11,13,18 150:22 155:20 156:4 161:9 167:4 170:11 183:18 188:17 206:1 217:2 217:5,25 219:20 222:10 224:7 231:15 239:19 245:15 247:6,10 248:16 250:13,24 256:24 257:2 260:9 269:5 304:7,22 goes 25:10 84:3 157:22 223:17 276:7 going 8:6 14:4 16:5 17:5 23:12 30:13,14 34:4 47:13 50:4 52:20 56:4,12 57:7 65:5 72:20 73:24 78:3 90:4,6 98:20 104:12 111:1	112:15 114:13 118:9 119:1 126:16 153:6 160:19,24 161:8,15 163:1 165:16 166:25 169:22 183:12 191:20 197:17 201:20,21 205:24 216:6 238:25 242:13 256:23 257:16 269:8 273:3 274:4 302:12,22 303:3 304:3,10 305:5,11,12 good 7:11 8:19 34:24 76:6,16 77:21,22 178:3 218:19 219:12 220:9,15,22 220:23 221:9 goods 159:6 goof 125:15 gotten 239:10 grad 17:24 graduate 67:8 graduated 14:12 graduation 14:14 Grande 3:15 grant 75:9,11,15 grants 75:13 gray 61:16 great 9:11 13:4 60:18 201:11 202:6 234:5 greater 91:19 123:22 123:23 245:1 286:21 287:5 288:11,19 292:11 292:23 greatest 152:10 greatly 125:2 Green 180:15 grocery 150:25 Groseclose 105:1 gross 241:4 grossclose 105:4,16 ground 71:19 161:15	group 80:3,5,11,13 80:20 138:15 258:14,20 263:24 266:7 273:13,24,25 274:6 groups 70:4,10,18 80:8 81:10 114:4 193:1 228:19 229:14 230:20 264:9 265:13 270:5 270:6,12 298:2 grows 124:2 guess 15:7,8,10 36:14 72:1 103:15 170:11 guessing 116:9 guest 64:20 guys 142:7 305:8 <hr/> H <hr/> H 4:6 habit 133:12,13 Hale 2:20 half 168:8 hand 220:6 handful 10:18 handing 12:8 happen 235:16 happened 31:5 62:3 272:19 305:20 happens 142:22 147:9 happy 102:13 161:10 161:11 189:20 272:4 hard 20:9 23:13 35:19 54:18 88:3,4 162:22 172:11 213:5 harder 19:18 50:4 151:8,13,25 Harris 24:1,3,5,7 hazard 15:8 hazier 21:9 hazy 21:1 He'll 305:17
--	---	--	---

JEFFREY MILYO, PhD

8/26/2014

19

head 8:20 14:5 21:16 22:10 31:14 34:4 47:14,23 124:21 222:3 228:10 232:4 232:7 244:2,8 247:9 285:13	253:15,21 254:8 284:15 historic 256:14 historical 301:24 history 73:2 81:13,19 82:7,18,23	hypothetical 105:10 276:6	269:23 278:19 286:11,13,17,20,21 287:3,5,18,24 288:11,19 292:10 293:18,25 294:13 294:24 295:19 296:2 298:24 299:17,19 300:22 300:25 301:1,6,10 301:18
heading 285:24	hit 57:17	I	ID 4:16,16 44:8,12
health 46:14,19 70:20,20	hold 219:9	46:13 49:3,12,23 50:10,19,20,23,25 51:12,16,22 52:8 53:4,23 54:23 56:9 56:10,10,14,15,21 56:23 57:12 58:6,8 72:1,11 73:13 75:4 75:23 76:4,6,12,16 77:5 78:9 91:14 94:5,15 120:17,18 120:23 138:16 139:2,13 141:19,23 141:25 142:1,3,16 142:17,22 144:8 159:17,21 160:1,8 176:22 177:14,16 177:22,24 178:5,7 178:10 179:2 180:20 181:9 183:14,25 184:3,6 189:16 190:11,20 191:4,11,18 192:19 193:7,16,21 194:12 206:23 207:1,15,16 207:19 210:16,24 211:8,18 212:16 213:8 228:18 229:2 229:13 230:19,19 231:5 236:22 237:15 239:16,21 246:7 247:13,22,22 247:25 249:9,17 250:19 252:15 253:14,21 254:7,17 254:22,23 255:5,6 256:9,10,13 257:20 257:22 258:2,7,13 258:21 259:10 266:4,14,19 267:8 267:13,18 269:11	296:2 298:24 299:17,19 300:22 300:25 301:1,6,10 301:18
hear 158:25 224:11	holding 81:9 278:6,9 278:13		ID-required 299:17
heard 6:18 68:25 151:4,6	home 133:25 282:13 305:12		idea 33:16 88:4 121:10 123:24 178:10 218:25
hearings 305:14	homogenous 265:13 266:6		ideas 105:2,3
heated 77:16,17	honest 54:17 59:12 90:12		identical 10:15,17,20 142:24 143:1,2 164:25
held 300:24	honestly 9:8 30:22 112:5 119:11 121:23 122:14,21		identification 4:13,23 5:3,10 33:13 43:21 43:23,25 44:2 49:10 58:1 78:23 115:6,17 117:13,22 118:24 153:1,19 181:19 184:15,21 245:4 247:18 297:10,12 297:13,22 300:17
help 10:1 25:16 29:1 62:15 104:18 150:1 171:20 172:22	Hood 5:3 180:10,13 180:24 181:16,21 182:1,8 183:10,12 184:12,22 185:8 186:6,9 187:6 189:12 190:9 244:15		identifications 238:2
helpful 7:22 22:7 98:21 99:16 103:8 139:24 261:5	hope 256:16		identified 12:14 107:4,6 108:8 129:20 133:2,23 134:3 139:7,18 140:18 143:22 144:23 201:1 202:2 220:3 228:15,16 236:5
helps 10:4 17:3 167:17,18	hoping 17:20 148:21		identify 36:11 108:20 109:17 112:22 126:25 128:15 132:4 133:5 137:19 138:22,25 139:3,8 182:17,18 198:7 200:23 201:22 205:17 206:5 207:7 207:23 208:19
Henrichi 167:9	hour 58:17,24 60:9 73:24		
Henrici 148:14 235:2	hourly 60:1		
hereinbefore 307:9	hours 30:15 60:15,23 60:25 61:5,8 162:16 232:1,5,8 302:5,8 302:16 303:9 304:15 305:15		
hesitation 82:14	House 1:18 2:3		
hidden 210:23 211:24 212:13 213:7 240:15	household 156:2		
high 84:12 118:9 258:17 269:25 270:11 281:14 284:8	households 155:13		
higher 298:3,9	Houston 291:8,19 292:2		
highly 13:5,8	huh 11:16		
Highton 5:9 283:12 283:17	human 175:23		
hire 18:4	hundreds 291:4,7		
hired 281:24			
Hispanic 87:22 129:22 132:14 211:1 239:22 261:10 294:14			
Hispanics 156:16			

JEFFREY MILYO, PhD

8/26/2014

20

210:8 212:9,21 213:20 215:10 217:10,16 221:4 228:14 241:6 255:25 281:17 291:16 identifying 218:20 219:13 220:9 221:1 221:10 223:7 ideological 102:23 103:7 104:1 114:25 115:9 IDs 79:22 80:11,12 80:20 81:10 150:21 231:5 if/then 236:13 267:6 267:9,9 IH-35 3:15 illegal 72:2,9 illustrate 226:14 illustrating 222:15 226:5 227:25 illustration 222:18 222:19 223:1 226:9 illustrative 93:21 223:16 225:2 226:7 227:6,8 imagine 68:1 121:21 122:1 151:11 187:21 imagining 155:23 immediately 11:13 73:14 191:23 244:3 289:5 impact 47:11 189:15 190:11,20 191:3,10 297:14 298:23 impanel 27:15,18 implementation 94:16 254:23 255:5 implemented 78:22 implications 73:18 implies 120:16 223:12 importance 201:3	important 8:10,18 15:9 102:24 271:19 272:10 273:15 274:7 impose 295:2 imposes 286:9 imposing 300:1 impression 31:24,25 205:9 improve 143:24 improved 255:23 improvement 212:7 improvements 212:8 inappropriate 108:8 include 25:19 53:15 72:4 94:17 95:9,10 95:18 96:1,9 106:10 107:11,17,18 137:11,17 138:14 195:19 196:11 210:12 237:8 276:19 included 9:23 46:15 47:17,19,23 61:12 67:5 97:14 98:6 130:1 134:2 144:16 174:24 175:7 176:5 includes 94:11 242:7 including 62:21 63:11 67:7 144:13 144:23,24 174:14 210:22 211:6 231:19,24 232:13 232:14 233:15 262:3 income 258:17 295:18 296:2,17 297:22 298:1,4 incomplete 93:1 inconsistency 95:22 95:24 145:18 inconsistent 92:17 93:1 145:14 264:11 incorporated 259:14 259:16	incorporates 252:23 298:16 incorporating 145:17 incorrectly 272:18 increase 241:3,4 increased 286:2 increases 284:13 286:15 incredible 302:14 305:5 incumbents 20:20,23 independent 15:20 15:22 46:17 Indiana 4:23 49:10 58:2 Indiana's 301:18 indicate 94:10 100:23 145:13 152:25 207:15 238:14 248:17 294:5 indicated 95:6 96:22 134:23 140:25 indicates 246:23 Indicating 220:2 indicative 263:19 indicator 122:9 individual 115:4 153:7,7 155:21,21 156:6,6 159:12 160:11 166:18 207:19 237:13 239:14 249:2 263:24 264:3,5 271:1,10 292:25 297:9 individual's 262:14 271:4 individuals 69:22 131:8 133:2 137:21 138:14,23 139:4,14 139:15,17 141:18 142:15 149:16 150:5 152:8,20 154:7 157:15 158:21 159:5 202:9	202:21 203:1,13,25 204:13 205:6 206:25 209:5,10 214:22 215:1,4,6,11 215:23 216:2,11,11 220:16 221:16,21 222:1 231:4 238:6 238:11,14 239:3 240:2 246:14,24 247:3,12,17,20,20 248:6,13,22,25 249:7,11,16,25 250:8 254:22 255:4 256:9 257:20,21 258:7,13,20 259:9 261:18 263:20,23 266:25 269:24 276:18 277:1 284:8 286:12,16 290:2 293:6,11 300:25 industrial 18:13 ineligibility 222:2 inflate 270:6 inflated 240:17 Influence 4:14 influenced 276:21 277:2 information 25:18 41:19 62:3 94:21,25 103:6,25 104:7 108:13,17 113:22 113:23 115:4 116:3 134:21 135:7 173:9 183:1 214:4,18 221:15 255:22 268:13 287:23 288:9,17 293:3 informed 277:16 informs 46:18 initial 95:19 97:23 127:2 162:4,6 163:13 165:3 173:7 202:18,20 203:2,15 204:1,14 205:4,7 231:18 252:1
--	---	--	--

JEFFREY MILYO, PhD

8/26/2014

21

initially 172:25 251:23	308:2	J	keep 16:14 54:18 60:4 133:14 142:9 160:24 168:7 176:7 185:1
input 177:17 266:4	interesting 11:15	J 3:2	keeping 60:6 61:3
inquiry 55:15 70:7	interpret 81:4 92:16 275:18	Jane 167:9 235:2	keeps 30:15 242:13
inside 22:14 109:16 109:22 110:7,14,21	interpretation 84:1 206:12 211:3 213:19 263:15,18	Jeffrey 1:10,14 4:8,9 4:10,24 5:6 7:3 128:3 306:3,20 307:8	Keister 3:9 6:16,16 10:6 13:10 33:1 34:18 36:20,22,23 41:20 42:13,13,14 46:2,6 76:18,21 78:3 82:10 83:1,13 85:14 99:4,10 108:23 118:25 130:6 134:5,11,15 134:22 149:22 155:3 157:13,21 172:14 175:19 194:3 198:3,21,25 199:14 200:15 204:15 210:1 216:24 219:14 224:9 229:15 230:14 234:18 269:2 271:23 272:14,24 273:7,20 274:17,24 275:4,15 276:1,9 286:24 287:7,19 288:2,13 288:21 289:11 290:5,18 292:5,13 292:20 293:9 302:4 303:5,22 304:5,6,10 304:14,20,21 305:3 305:7,11
insignificant 282:23 283:8	interpretations 198:8	Jersey 2:5	Keister's 11:3
instance 1:15 25:19 86:25 145:17	interpreted 270:21	Jewel 148:14	kennel 305:13
instances 25:19 92:15 143:22 159:25 160:14	interpreting 204:19	job 19:12 218:19 219:12 220:9,22,23 221:9 308:25	kept 57:9 232:9
institute 51:23,25 52:1,7,12,13,16,18 54:2 74:3,5,6,7,10 74:19 75:3,4 76:1 179:23	Intervenors 5:6	jobs 220:15	kind 11:3 21:1 46:10 53:6 69:21 74:17 76:4,8 85:20 87:23 90:11 93:12,14,15 106:10 113:7 114:24 119:18 122:9 132:6 141:4
institutions 47:12 62:23 63:13	intrastate 248:20	John 34:12 42:10 54:6	
instruct 46:3 76:21 119:1 130:6	introduced 161:3	journal 35:7 47:10 57:22 58:3,6 64:11 64:14 180:4 187:8 187:13,15,20,25 188:14,20 189:4,14 190:9 244:1 261:17 298:15 300:13 301:15	
instructions 7:23 122:16	investigate 182:8 185:9 186:10,18,23	journals 243:4,6	
instructor 19:5 22:21	investigator 67:2	judge 31:17,21 303:16 305:10	
instrument 97:24 98:3 100:13 112:25 113:3,13,15 114:7,9 114:11 140:9	investment 159:6	July 162:7 163:15 172:3,8,10,10,12 256:20 257:5	
instrumental 268:2	invoice 59:22	June 14:13 162:7	
insufficient 204:8	involve 69:13,21	jurisdiction 271:16 272:7 273:11 274:3 274:3,6	
insufficiently 195:15	involved 29:19 149:16 150:4 287:12,14,24 288:1 289:1	juror 27:15	
insurance 46:14	involves 71:5 73:3 258:1	jury 27:4,7,10,13	
intend 61:24	irregularities 57:13	justice 2:11 3:3,20 74:4,5,6,8,10,19 75:3,4 76:1	
intended 229:23 240:23 255:23	irresponsible 251:24 252:4,7,10,12,18,25		
intent 87:5,17,20 88:9 89:7,16 132:23	isolate 276:17,24		
intention 36:18 142:18 196:10	issue 45:18,20 70:15 84:13 85:20 86:1,2 86:7,8 106:3 111:14 145:4 149:6 153:24 182:12,17,18 185:13,17 186:3,4 281:11		
interaction 90:11	issues 69:3,14,16 70:9,17 73:10,20 85:16 104:20 145:7 226:15 228:13,15 228:16 276:11 302:20		
interest 74:13,16 75:20 122:7 219:16	items 115:1		
interested 33:10	iteration 187:23		
		K	
		K-o-c-h 75:8	
		Katz 5:11,13 294:11 294:23 295:18,25 296:19 297:6 298:13,22 299:15	

JEFFREY MILYO, PhD

8/26/2014

22

148:5 178:21 180:4 203:9 269:15 288:7 299:22 300:3 kinds 7:23 26:15,19 45:13,15 47:4 71:7 74:16 88:5 93:7 154:8,9,11 226:15 280:5 know 11:24 12:6 16:14 17:22 20:6 21:20 27:8 28:17 29:2,4 30:13 33:14 38:20 39:11 52:8,9 54:21 57:19 61:2,20 62:5 64:4,5 75:22 75:25 77:2 81:4 82:4 86:3 88:3 91:2 101:3 102:8 105:13 111:14 112:14 121:6 123:23 124:1 129:10 132:14 135:15 141:21,24 144:18 145:5 153:12 156:8 158:19 161:8,10,14 163:24 165:8 166:20 168:2,7,10 168:13 172:9,20 173:12 174:6 179:3 187:12,14,18,23 188:12 190:21 194:14 203:4 207:10 209:15 214:23 215:2,8,13 215:17,18,20,21,24 220:25 221:14,19 221:25 225:16,19 228:7 231:12 243:2 243:11 244:9 248:20,25 249:2 251:2,5 260:14 268:22 272:21 277:13 279:10,12 287:25 289:18 290:10,20 291:6,9	291:10 297:2 298:1 298:12,14,18 301:25 302:1 304:9 knowledge 7:22 13:5 74:11 75:6,19,21 81:22,23 83:6 187:11 188:4 189:1 192:16 221:24 245:7 255:12,19 292:17 known 108:14 124:6 269:18 Koch 75:7,10,12,16 75:16,22,25 <hr/> L L 5:6 label 246:22 lack 91:14 192:18 193:7,21 194:12 245:3 252:3 257:20 258:7 266:3,14,19 266:20 267:8,16 268:9 lacked 195:6 lacks 138:15 239:21 laden 203:18 laid 211:2 299:6 language 130:25 large 37:6 40:24 44:20 68:15 154:5 178:19 217:10,16 217:22 218:6 221:4 221:6 273:13 277:4 277:4 283:5 299:15 larger 123:20 284:14 284:15 late 77:4 142:8 189:18 202:4 224:4 229:17 247:9 latest 9:25 35:21,25 36:3,6,7,12,19 Latino 243:25 Latinos 80:17,20 81:14,20 82:8,19,24	law 1:22 2:11,15 19:21,22 25:9 74:13 77:21,21 78:23 189:16 190:11,18 190:20,22 191:2,4 191:11 192:4,6 249:5,15 254:17,23 255:6 256:10 278:19 301:18 laws 5:8,10,14 43:21 43:23,25 44:2,8,12 44:17 46:13,23 56:9 56:10,11,15,16,21 75:5,23 76:4,6,12 76:16 78:9 120:17 191:18 293:19,25 294:13 295:19 296:2 301:6,10 lawyer 29:2,18 lawyers 2:15 28:7 41:25 82:12 lay 77:18 86:7 layperson 76:24 83:8 83:11 lead 241:9 280:13 297:23 League 2:19 6:23 leave 23:17 108:13 303:2 leaves 220:18 lectured 64:20 led 104:16 211:23 left 17:21 legal 3:15 28:19 35:13 41:16,18 42:4 62:4 84:1 86:4 308:8 legally 245:3 246:25 247:4,21 248:22 249:3 legislative 1:17 2:2 6:4 20:2,5,13 legislatures 46:12 lending 44:25 length 12:15 96:12	96:15 121:13,17 122:6 lengthy 120:22 122:17 let's 10:1 12:25 14:5 14:8,24 18:8 20:1 21:4,13 25:5 29:14 36:10,23 38:3 40:2 43:3 50:5 51:6 52:20 53:22 58:13 58:14 68:14 72:12 73:25 78:11,13 86:24,25 89:2 90:14 94:3 99:8 102:17,18 103:11 116:6 125:18 128:19 136:13 138:9 141:16 145:10 148:12,22 153:17 160:24 165:10,18 167:4 180:7 188:1 212:18 222:10 224:7,21 235:6 239:19 253:24 256:16 257:14 259:18 277:11 291:21,22 293:13 298:17 300:6 letter 102:1 level 249:11 264:4 297:9 levels 274:15 297:21 298:1,3 license 94:5 137:22 139:5,16,20 140:4 140:12,19,25 141:2 141:13 142:13,18 173:2 181:18 184:14,20 192:9 290:1,3 license-to-carry 79:13 licenses 131:9 133:3 138:15 139:15 life 158:10
---	--	--	---

JEFFREY MILYO, PhD

8/26/2014

23

light 127:12	105:13 234:6	119:20 126:21	35:19,23 38:12
liking 204:18	274:21 279:11	128:19 131:14	45:12 47:20 48:2
limited 39:21 68:2	303:18	135:3 137:18 138:9	56:3,6,7 69:14
87:7 88:10 89:16	LLP 1:23 2:4,7	139:20,22 140:12	70:19,21 72:13,15
175:24 187:16	lobbying 46:16 52:10	148:4 152:13,14	76:13 85:19 91:8
225:20,21	located 52:2	156:7 162:24	112:1 113:15 114:7
limiting 303:7	location 149:16 150:5	163:23 170:12	114:21 116:14
limits 46:12	locations 290:16,17	173:23 175:1,9,10	119:23 123:9
Lindsey 2:7 6:14	290:21,22,25	180:12 181:4	124:17 125:22
Lindsey.Cohan@d...	291:17,23,24 292:1	182:14,21 183:17	126:18 130:22
2:9	292:3	185:15 186:25	138:10 140:9
line 6:20 217:12	Lodge 103:21	199:24 203:6 209:7	146:17 169:7,10,11
253:1,3,5	logic 65:24	209:14 217:23	169:13,14 170:4,5,7
lines 73:13 217:14	logistics 43:2	218:4 219:1 225:7	170:21,24 171:1,4
295:7,11	Logit 146:24	225:16 227:8 229:7	177:22 181:13
linkages 178:19	long 8:25 12:18 30:14	230:4 244:20	188:8,11,16,21
linking 237:1	30:14 42:16 59:11	245:17 246:2 247:1	189:8 193:12
list 44:20 50:3 72:13	92:4 96:7,20,25	248:10,21 249:5	206:14 207:4 220:1
79:8 121:1 135:12	113:24 116:13	260:8 269:17	261:2 275:5 277:14
146:4 202:18,20	122:15,22 143:10	277:21 280:10	291:25 294:16
203:3 205:4 213:22	149:24 162:13	283:24 285:17	298:21 299:18
214:4,18,22 215:1,4	215:21 217:12	290:7 291:22,23	looks 10:4 13:3 44:8
215:7,10 220:20	224:5 263:24,24	292:23 294:7 295:5	44:11 72:16 78:24
221:21,21 223:23	264:5,15 274:24,24	295:13 299:9,12	99:17 103:2,19
223:24 224:15,15	301:12	301:17	127:1 179:22
238:1 246:15,24	long-standing 112:6	looked 12:15 35:8	180:17 184:4
247:2,4 248:7	longer 30:15 116:12	37:14 40:3,11,16,23	214:12 217:19
listed 14:1 47:3 60:25	163:18 177:12	40:25 55:16 62:14	218:15 229:22
185:24 282:17	191:21 194:19	84:20 86:11 140:15	235:11 254:14
lists 203:5 216:2,10	195:5,8,21,21	140:19 141:6	260:10 284:11,17
216:12	196:13 280:11	143:22 146:12	295:11 297:16
literally 36:17 162:14	302:21	148:15 153:23	303:16
literature 20:18 44:7	look 9:19 10:25 11:5	163:4 168:2,4,13,16	loop 167:22
44:11 53:3,14,16	11:10 12:18,25	170:13 171:7,13,17	Loraca 294:8
55:8 115:14 119:24	22:14 25:7 35:24	173:22 174:21	losing 159:21
145:21 146:5 148:7	37:17,21,23 39:5,8	175:13 188:17,24	lost 140:5 239:10
154:5,10 191:17	39:21 40:4,18 46:3	191:6,14 197:19	lot 38:19 71:18
266:18 283:4 285:1	46:11 47:15 48:1	209:9 224:23	112:15 163:24
285:20 286:1 301:8	58:14 62:6 67:23	225:17 229:6	168:3 169:20
literatures 154:15	94:18 98:21,23	233:22,24 234:1	193:22 233:23
litigation 49:22 161:5	99:11 100:14	253:4 278:6,9 283:6	260:7 269:3 270:19
192:3,12 254:16	101:25 102:10	285:9 301:12,21	lots 166:20,21
little 8:6 12:7 15:8	103:9 104:10 105:9	looking 11:7 12:21	loud 99:14
16:7 17:23 42:11	113:2,12 114:9,11	18:15 20:1,8,10,25	loudly 159:2
73:25 104:15	116:4,6,11,12	21:2 24:24,25 25:3	Louis 22:20

JEFFREY MILYO, PhD

8/26/2014

24

low 267:1	284:1 294:19	material 298:16	measured 20:19,22
lower 174:23 220:24	298:17	materials 55:18	118:3 149:18 150:7
258:13,15,18	mark-ups 129:18	268:24	244:9
266:25 281:15,16	marked 9:18 10:1,3	matter 76:20 138:5	measurement 125:5
297:21,22,23	10:24 13:5 103:12	176:18 260:20	measures 46:17
lowest 258:16 259:6	103:13,15 112:18	270:3 303:13	241:18 242:11
259:7 283:18	112:20,22 113:13	matters 277:8,15,23	271:1
Lunch 104:13	116:7,8 117:7,9	McCarty 122:19,20	measuring 244:18
	118:4,6 126:23	122:24	meet 42:3
M	127:1,21,22,24	McDonald 124:10,12	meeting 60:13 61:17
machine 1:22 307:11	129:4,6 130:13	125:1 224:24 225:8	meetings 42:21
macro 19:16	179:19 184:12	McDonald's 225:14	Melody 1:20 307:4
macroeconomics	189:24 230:2	226:18	308:7
19:15	254:10 284:4	McLENNAN 307:3	member 64:16 66:19
magnitude 222:15,20	294:21 298:19	mean 17:5 20:5,13,14	67:4,6
222:21 225:3 226:5	300:7,8	20:17 27:8,17,24	members 20:20
226:14 228:1	marketable 57:2	28:4,14,22 36:21	memory 31:4 48:1
mail 50:22 289:8,9	married 22:16	39:9,22,25 41:17,25	100:15,17 111:16
290:12	Marvin 254:15	43:23 44:3 45:10	119:5 123:10
mailing 290:4	master 215:16,22	52:11 55:10,11	164:23 165:23
main 54:7 58:7 71:25	match 179:13 208:7	56:23 61:12 63:25	171:20 191:22
234:7	208:9 215:19 230:8	68:19 70:23 71:25	219:16 220:5 230:5
maintain 193:6	237:2 239:18	75:19 76:5 77:14,20	244:21 255:20
maintained 133:17	matched 177:17	84:15 87:15 89:5	256:24 260:6 265:7
maintaining 159:13	190:14 209:18,20	97:4 101:6,14 107:8	289:3 291:20
160:12	231:5 237:18,23	144:6 153:12 157:5	298:25
maintenance 213:23	238:15 247:13,17	158:16 160:9	mention 25:8 110:24
214:4,18	248:14	162:20 172:5 176:8	223:17
making 11:7 13:13	matches 195:18	176:9 178:17,23	mentioned 24:18
77:19 81:3 126:15	215:15 216:1,10	194:4 208:15 234:1	45:21 49:1 57:23,25
151:20 162:19	221:20 238:12	243:13,15 248:4	62:13 67:13 72:8
217:4 224:16	matching 145:8	253:6 266:21	90:20 106:14
MALC 6:25	176:4,5,18 177:5,19	276:20 279:19	110:10 146:12
manner 102:22 103:6	177:23 178:11,15	280:2,24 281:1	206:20 208:23
103:25 104:5	178:18,22,25 179:5	283:1,3 293:2	209:4 211:10 240:4
114:16 120:9	179:9 189:15	meaning 27:5 28:8	261:7,7 262:17
158:13 305:2	190:10,19 191:3,10	28:10 82:6 118:19	mentioning 244:3
maps 234:11	200:20 201:5	125:7	mentions 72:1 218:10
margin 226:22 227:2	203:14 206:10	means 28:17 29:5,21	merely 121:13
marginal 60:22	208:14,21 209:1,4	86:4 132:5 222:5,9	234:10 249:13
mark 1:3 2:14 6:6	209:15,21 210:5,11	301:25	merited 100:19
9:14,16 10:23 166:3	210:13 212:3 215:9	meant 8:23 104:15	Mess 54:23 56:23
167:3 179:17	237:1,6,14,21	151:3	met 42:24
189:22 229:25	239:15 241:2	measure 178:6	method 1:22 110:8
253:24 254:11	297:12	242:22 271:11	206:12 211:14

JEFFREY MILYO, PhD

8/26/2014

25

212:7 235:13 260:24 261:12,14 263:14,16 264:7 299:20 methodological 46:21 64:8 245:24 250:5,5 251:9,13 278:7,12,15 298:14 299:24 methodologies 150:20 methodology 65:1,6 193:19 235:22,24 241:1,2 256:17 263:12 264:14 276:7 methods 64:21 69:4 70:6,14 91:11 197:23 198:6,8 199:2,5 200:5 201:12 213:20 237:20 251:14 252:2,4 253:8 259:20 283:7 Mexican 1:17 2:2 Mexican-American 6:4 Michael 224:24 225:8 micro 19:16 microeconomics 19:9 micromanaging 145:4 middle 162:9 163:17 256:21 257:7 Midwest 50:7 54:10 54:15 miles 161:9 military 18:17 million 91:10 173:2,9 174:11,14,23 175:7 176:6 193:6,16,20 194:11 195:1,19 196:9 214:2 246:1 252:14,23	Milyo 1:10,14 4:8,9 4:10,24 5:6 7:3,7,7 7:10,11,15 9:17,20 10:2,7,9,9,13,14,14 10:15,23 11:4,12,14 11:22 12:3,4,7,7,13 12:21,23 13:1 25:2 25:6 35:19,24,24 36:3,5,6,9,9,10,14 36:25 40:16 58:12 58:13,14 62:12,12 74:2 78:15,16 90:16 98:15,16,24 99:1,2 99:3,18,18 100:3,3 100:6,7 104:14 113:14 125:23,23 128:3 130:20 134:3 135:3 137:23 138:4 138:11 143:6,6,7,12 161:3 167:7 179:20 189:25 209:15 274:23 303:24 306:3,20 307:8 Milyo's 13:7 mind 15:7 27:4 41:12 44:24 73:14 102:16 112:12 145:9 158:24 159:20 178:12 186:18 189:19 265:7 278:22 279:21 281:8 289:5 299:2 minds 60:13 61:18 Mine 7:14 minimize 151:1 minimum 302:24 minor 200:10 minorities 235:8,25 236:10,15 258:10 258:24 259:12 minority 239:22 266:19,21 271:17 271:18,22 272:8,9 272:13 273:12,14 273:19 274:15	275:22 298:4 minutes 41:7 42:19 131:13 188:18,25 189:9 302:24 303:12,21 Mischaracterizes 288:3 misleading 251:24 252:5,8,12,18,25 misreport 102:21 103:5,24 104:5 120:8 misreported 114:16 misrepresent 135:19 missed 159:1 237:19 missing 69:20 214:1 272:3 Missouri 5:6 24:15 24:17 51:9,11,17 179:24 180:5 254:17 255:8 256:10,20 257:5,18 289:23 Missouri's 254:23 255:6 Missouri-issued 258:21 misused 263:14 mix 38:13 mixed 294:12 Mixed-Level 47:12 mixing 77:23 145:8 mobilization 154:11 mode 149:21 150:15 model 278:4 280:21 281:3,4 299:5 models 281:19 298:23 299:2,6,10 299:14 modern 280:11 modest 282:23 283:1 283:3 284:24 modifications 162:5 modified 280:11 moment 57:8 167:5	170:3 178:14 181:3 205:24 monetary 21:12 monetize 149:6 money 148:18 149:2 156:20 157:1 Monica 18:1 month 34:5 months 56:25 Moore 3:20 6:12,12 morning 37:13,15,17 37:18,20 38:12 Morris 5:6 mortality 220:25 motivated 4:11,14 102:20,24 114:23 115:14,18,25 116:2 119:7 120:6,7,13,17 motivation 121:18,19 mouth 170:10 move 15:16 17:19 219:4 231:9 235:8 236:1,11,16 237:13 237:19,21 239:14 248:17,23 257:17 259:18 300:6 moved 23:6 237:22 238:17 239:5 289:23 movement 53:7 moves 236:6 237:18 238:25 248:20 249:2 moving 163:10 257:17 MPosner@lawyers... 2:17 Mullin 5:9 283:12,17 multiple 75:13 108:9 120:23 150:24 158:4 159:22 162:23 163:5,9 164:15 185:18 203:4 221:2 254:24 257:24 270:8
---	--	---	---

JEFFREY MILYO, PhD

8/26/2014

26

284:21 285:23 291:3 297:3 302:16 302:19 mundane 285:21 Mycoff 5:14 294:7 300:9,15 Myth 124:13	256:23 257:22 286:13 293:7 298:25 needed 41:19 needs 287:3,4 negative 295:8,11 297:13 299:16 neighbor 154:20 neighborhood 52:24 Neighborhoods 244:7 neighbors 153:2,20 154:1,25 155:18 neither 307:23 never 42:24 71:23 132:16 174:21 205:20 206:7 282:11 Nevertheless 99:23 new 2:5,12,12,15 62:3,6 108:13 147:20 171:7 191:19 200:19 next-to-last 143:15 143:18 night 37:19,22 38:12 42:7 night's 34:24 no-match 174:22 197:15,22 198:2,12 202:18,20 203:2,5 203:15 204:1,14 205:4,7 223:23,24 224:15,15 238:1 244:25 253:5 no-matches 198:19 199:11 239:4 240:3 nods 8:20 non-Hispanic 156:16 261:10 non-matched 194:19 non-matches 176:23 177:14 178:6,7,11 180:21 181:10 183:14,25 184:6	206:17,19 207:8,9 207:11 239:20 241:5,7,13 245:2 non-Stanford 18:23 non-Stanford-relat... 22:1 nondramatic 281:6 nonexistent 284:24 nonlinear 295:6 nonprofit 74:15 75:18 nonresponses 146:2 nonresponsive 204:10 nontrivial 226:8 nonwhite 295:1,8 normally 304:1 normative 77:1 93:7 North 3:15 nos 144:8 213:4 note 133:10,17 180:7 180:9 181:4,7,20 182:4,17,25 184:16 184:17,22,25 185:23 186:5 298:15 299:24 300:14 noted 217:9 306:22 notes 133:13 143:25 233:24 notice 1:24 4:19 126:20 128:2 noticed 112:7 190:23 notification 236:22 notion 160:5,6 284:23 293:24 294:12 295:17 296:1 number 1:5 9:18 10:3,24 20:15 21:20 37:6 38:20 44:20 45:18,20 47:24,24 48:3,3,3,13,13,14 49:8 78:13 86:25 91:13,23 95:3,10,18	96:3,5,9,10,24 97:2 97:5,15,17 98:16,16 98:22,24 99:1,2,3 103:13 105:20 106:5 111:8 112:2 112:20 113:10,11 113:14,14,21 114:5 115:22 116:7,8,9 117:7,9 118:4,7 121:9 125:23,23,23 126:6,23 127:1,22 127:24 128:20 129:4,7 131:15 132:14 134:1,2,4 135:4,24 136:11,12 136:16,18,23 137:1 137:24 139:22 154:22 158:7 165:2 172:19 174:23 179:19 189:24 192:16,17 194:18 194:24 195:18 197:16 198:12,18 199:5,10,10,11,25 200:5 202:14 203:8 208:16 211:24,25 212:10,12,15,17,18 212:19,22 213:15 213:17 217:10,16 218:6,11,25 220:11 221:4,7 222:25 223:9,17 229:5 230:2 239:20 240:12 241:4 252:6 252:10,17,20 253:1 253:3,4,5,6 254:2 254:10,21 255:4,8 257:21 258:12 259:23 260:22 277:4,4 279:7 281:8 281:18 284:4 290:14,24 291:9 294:21 298:19 300:7 308:8 numbered 1:19 47:9
--	---	---	--

JEFFREY MILYO, PhD

8/26/2014

27

numbers 4:20 48:3 48:13 52:21 112:18 129:10 130:4,16,23 131:3,8,19 132:10 132:22 135:22 137:12,16,17 139:3 139:4 173:14 192:24,25 195:20 195:25 196:2,7,19 198:5 200:6,19 201:18 213:19 218:19 274:8 numerical 84:19 numerous 92:14 165:14 302:20 NW 2:21 3:4 NWB 3:4 NYU 2:11	observation 129:9 139:3 observations 4:21 130:24 132:23 214:2 238:2 267:21 268:18 observed 270:5,7 285:14 observes 240:9 253:14 obstacle 270:23 obtain 192:8 286:21 287:5,17 288:19 291:7,18 293:7 obtained 110:23 206:25 207:16 214:15 237:15 239:16 288:17 290:1,16 obtaining 150:21 152:10 153:1,18 156:22 157:3,12,20 158:7 287:24 288:11 290:2 obviously 15:1 303:14 occasion 47:6 53:24 62:6 occasionally 104:19 occasions 185:18 occurred 303:9,17 odd 101:21 offer 23:18 83:7 offered 23:20,21 24:6 24:8 84:22 85:9 87:23 offering 54:8 82:16 82:17 offhand 14:15 193:12 231:25 office 3:10,10 11:3,19 12:12 13:9 42:22 100:23 101:8,10 133:25 151:1 172:17 215:5 216:1	216:9 221:14,19,25 222:5 235:10 236:2 236:21 officer 307:9,11 officer's 307:20 Offices 1:23 official 100:22 101:7 101:22 282:1 oh 32:8 45:2 54:4 122:3 180:8 208:8 219:20 228:24 236:3 241:7 okay 7:7,20 8:12,16 8:21 9:2,11,14 11:9 12:20 13:1,10,18,21 14:25 15:15 17:3,4 22:1,8 24:25 25:2 25:18,22 27:9,14,19 29:11,14 32:7 36:10 37:21 45:2 58:21 78:25 91:22 102:17 111:14 112:19 114:7,12 121:1 135:2 138:7,13 140:2,10 148:12,24 148:24 161:12,14 161:20 166:9,14 167:20 168:4,14 178:13,24 180:7 182:7 183:8 189:12 192:8 193:9 197:14 223:22 233:13 234:15,21 239:13 240:6 246:4 251:19 253:11 257:3 263:7 271:11 275:21 276:23 277:20 290:14 296:15 303:5 Oklahoma 190:18,22 191:2 192:4,6 older 95:8,16,20 omit 94:1,14 95:3 96:23 121:3,7,11 141:9,20 142:12,18	142:22 144:11 221:6 omits 96:10 omitted 92:24 97:5,8 97:14,17 113:9 114:5 173:2 175:8 175:18 omitting 146:8 once 133:14,16 174:23 175:17 176:5 one's 118:12,16,16 297:15 one-minute 102:3 one-to-many 210:11 210:13 ones 40:6,20 65:3 82:3 139:7 144:18 ongoing 74:22 oOo 305:25 op-ed 72:4,7,11,16,19 op-eds 72:5,23 open 108:13 220:18 303:3 open-ended 59:11 operative 11:22 opine 157:7 229:11 236:15 opined 242:8 opining 239:9 241:24 opinion 4:15 29:25 31:6 68:16 72:18 76:3,15 78:8 81:24 82:6,12,18,22 83:7 83:15,16 84:5 86:2 86:4,7,12,14,16 92:9,21 100:5 106:22 110:11 116:21,22,23 119:13 150:9 157:6 174:15 199:9 202:4 223:3 238:21 242:5 251:17 255:11 264:22 305:12 opinions 28:21,24
---	--	---	--

JEFFREY MILYO, PhD

8/26/2014

28

29:16 61:24 62:2,9 62:16 77:25 78:2,5 78:12,12 79:25 82:2 82:15 83:2 84:10,22 84:24 85:3,9,11 86:5 106:6,15,21 107:15,21 108:15 108:16 112:17 116:15 117:1,22 119:15 147:5 156:9 169:23 176:1 197:20,25 198:11 198:17 205:22 259:20 opportunities 76:13 opportunity 85:5,6 149:4 206:5,16 271:12 275:23 302:25 304:18 oppose 120:16 opposed 53:2,14 116:3 239:4 opposition 117:15 oral 1:9,14 307:10 orally 8:19 oranges 270:12 order 42:19 99:16 112:22 145:5 215:10 229:11,12 249:17,19 251:17 258:2 274:4 276:4 287:24 ordering 37:8,10 299:20 300:3 Ordeshook 278:3 279:17,24 Ordinal 5:12 organization 50:16 261:25 262:13 original 53:18,20,21 57:15 59:9,15 80:14 129:24 164:6 165:1 165:5 191:6 197:10 238:1 245:17,19 250:2,16,20,24	253:23 268:1,6 307:20 originally 126:9 275:9 Ortiz 3:14 7:2 outcome 20:16 308:2 outcomes 45:13,16 70:21 outside 22:16 49:21 78:4 82:4,22 83:2 84:3 85:15 108:11 108:12 109:16,22 110:7,14,21 111:23 172:17 179:1 192:12 216:25 261:22 262:9 276:10 outstanding 59:22 overall 67:20 192:23 220:23 277:3 293:16,24 overarching 270:21 Overby 254:15 overhead 55:21 overlap 69:4,9 70:6 114:4 overreporting 223:11 227:15,16 227:23 228:4,5 oversampling 110:8 overstate 91:13,23 overstated 125:2,8 250:10 overstates 124:6 ownership 47:1 <hr/> P <hr/> P 2:1,1 3:1,1 p.m 1:20 305:24 pack 305:13 page 4:1,7 5:1 11:11 11:16 24:25 25:7,10 25:23 26:14,18,22 58:10,14 86:24 105:11 127:5	130:23 180:9 184:17 201:10 218:25 219:2,19,20 220:1 230:22 234:2 234:14,17 237:4,7 254:19,24,24 255:1 256:17 257:7,18 275:2 284:2 294:22 295:15,23 296:5,7 297:4,8,19 298:20 300:12,13,14 307:17 PAGE/LINE 306:4 pages 166:21 298:21 299:6 paid 21:11 31:22 52:12,13,15 58:18 58:25 59:20 60:5 100:18 271:20 272:11 panel 51:21,22,23 paper 118:20 133:13 179:25 180:10,18 180:25 181:2,6,8,15 183:10,22 184:10 185:2 186:11 187:7 187:12,16,18,24 188:13,19 189:2,11 190:2,4,13 286:6,7 294:11 295:16 296:12 297:5 papers 189:17,18 191:19,20 244:20 294:8 paradigms 209:17 paradox 280:4 paragraph 25:8 26:5 26:7,10 58:15 78:18 87:1,2 90:14,17 91:8 92:2 93:24 94:2,17 96:7 97:12 97:16 98:7,17,24 100:21 101:1 102:18 113:11,21 114:21 120:21,25	121:24 123:12 125:18,24 128:20 129:21,23 131:10 131:21 132:18 135:7,14 137:1,13 137:20,25 138:2,4,6 138:10,24 142:11 143:4,5,8,10,16 150:19 152:25 156:14,19,23 157:19 158:5 159:11 163:14 176:19,20 177:2 180:14 192:14,19 192:25 193:2 194:16,21,21,22 195:16 196:4 206:20 214:8 217:8 217:13 218:13 219:5,22,24,25 220:3 222:10,11,14 223:10 235:6,7 239:19 241:22 242:4 244:22,24 245:14 249:21 251:20 252:11 254:19 255:2 256:21 257:6,7,8,9 258:6 261:4 266:12 266:24 269:17 270:14 277:12 280:10,15 282:20 293:14,20 295:14 295:24 paragraphs 25:11 90:22 98:18 105:12 105:13 128:22 166:1 paraphrasing 258:25 259:2 parlance 28:9 part 21:9 51:23 67:14 67:18 69:14 87:4 88:4 115:17 119:24 122:2 125:15
---	---	--	--

JEFFREY MILYO, PhD

8/26/2014

29

149:25 162:22 177:6 178:15 184:2 202:15 258:1 267:5 275:2 277:9 285:1 295:23 partial 220:3 239:24 participant 66:16,21 262:18 participate 158:10 271:2,12 275:23 participated 45:20 participation 68:2,12 256:14 297:14 particular 20:20 28:8 43:8 53:24 65:7 81:4 83:19 105:5 111:11 115:9 117:19 147:6,10 169:7,9,12 170:22 170:23 171:1,3,6 172:21 187:24 188:21 214:9 220:18 223:2,16 231:11 232:10 234:12 240:13 247:5 248:25 250:14 260:11 261:7 276:17,25 278:24 288:15 290:25 299:1,2,11 302:1,19 303:8 particularly 40:24 81:14 82:9,20,25 102:24 252:4,12 303:16 parties 4:17 302:19 302:20 307:24 partisan 4:14 102:23 103:7 104:1 114:25 115:9 117:13,21 119:17 party 4:16 20:21 118:13 party's 118:24 pass 160:19	passage 86:18 87:17 89:8 206:19 passed 87:20 302:4 passing 160:20 passive 185:1 patient 260:8 patterns 70:3 256:15 263:13 264:8 pay 53:7 273:4,15 274:5,7,10,11,14 275:24 276:14 payment 52:17 59:10 peer-review 58:3,5 301:15 peer-reviewed 31:18 64:9,14 66:8 180:3 187:8,13,15,20,25 188:14,20 189:3,14 190:9 242:19 243:4 243:6 261:17 pending 9:1 Pennsylvania 2:21 3:4 people 6:19 77:5,8,20 95:12 96:19 109:11 111:9 112:3,4 117:18 120:16 122:13,20 123:2 133:5,6 139:8 140:18 141:8,12,22 144:25 151:8,13,25 154:13,24 179:9 237:18,20 239:5 243:12 248:8 279:10 280:4,9 281:25 283:6 people's 117:22 perceived 118:23 percent 13:15 164:16 168:9 181:17 184:13,19 222:12 222:23 223:4,5,13 223:19,21 224:22 225:7 227:3 231:23 271:9 280:18 281:7	281:10 283:19 284:9 percentage 79:22 227:8,20 241:19,25 242:11,18 244:10 274:9 281:5 percentages 223:12 225:1,9,10 perception 118:17,18 118:22 perceptions 4:17 118:13 PEREZ 306:2 perform 267:14 performed 213:11 period 21:7 262:6 302:21 periods 24:24 perishable 158:15,17 permanently 155:24 permutations 229:6 229:22 PERRY 1:7 306:2 persist 230:10 246:6 250:6 251:9 persisted 230:20 persists 211:19 229:13 231:6 person 32:25 42:25 116:20 142:21 150:23 155:25 159:17,21 160:1,7 160:15 186:1 207:15 249:17,20 287:2,3 288:15 290:23 304:12,14 personal 76:3,5,15 77:25 78:2,8 83:14 189:1 personally 191:11 305:19 persons 125:7 137:20 141:10 177:23 212:15 258:17 266:3	pertaining 128:21 perverse 282:23 284:25 PhD 1:10,14 7:3 13:23 23:10 281:22 282:6 306:3,20 307:8 phenomena 69:23 115:18 120:13 154:12 phone 42:7,8,9 302:23 303:11,20 304:12,14 phonetic 294:8 photo 49:9,23 56:10 56:15 75:23 76:4,6 76:12,16 254:22 255:5 256:9,13 258:2,21 259:9 297:13 299:17,18 301:1 photographic 4:22 58:1 300:22 301:18 phrase 31:17,18 83:25 phrased 274:1 phrasing 239:24 273:23 PI 67:25 pick 32:20 72:12 Pickerin 2:20 piece 133:13 place 53:17 249:18 286:3 292:12 places 92:14 219:17 263:21 284:21 290:15 291:4,7 292:2 placing 204:17 plaintiff 150:20 155:8 193:1 PLAINTIFF-INT... 2:19 plaintiffs 1:4,16 2:2 7:2 41:24 43:14
--	---	---	---

JEFFREY MILYO, PhD

8/26/2014

30

78:20 79:2 87:4 88:9 89:15 105:6 192:18,21 194:9 planning 149:15 150:3 plausibility 197:21 198:1,11,18 199:3 199:10,16 200:4 plausible 124:25 216:18,20,22 play 60:10 please 6:21 8:14 9:1 30:19,24 36:11 46:4 53:10 89:13 108:21 130:9 134:6,15 172:15 204:23 205:2 219:14 249:22 251:19 294:22 295:13 298:20 plenty 34:25 Plus 273:7 point 25:5 49:7 82:16 87:24 90:10 92:14 95:21 101:17 109:10 114:13,20 149:3 155:7 166:6 166:10,11 177:25 189:18 199:9 205:19 206:8 214:9 221:23 223:16 226:7 235:13,19 241:21 265:7 281:17 299:1,4 pointed 36:8 71:25 86:20 pointing 11:20 140:22 177:23 283:5 295:20 points 201:7 227:20 265:25 polarized 83:17,24 84:7,14,25 85:12,25 86:9 policies 45:13,15,22	46:7 47:11 117:15 policy 45:3,7,10 46:19,22 49:8 63:7 71:1 116:15 117:19 179:23 180:1 301:12 Polimetrics 67:24 political 4:12,16 22:21 45:2,7 46:19 50:7,8 54:11,18 62:21,22 63:7,11,12 67:8 68:24 69:2,7 69:12,16 70:21,25 71:6 77:16,17 116:3 117:14 118:13 154:12 242:17,23 243:5,9,19 244:1,7 263:12 264:7,15,17 271:12 275:23 279:2,15,25 281:20 281:23,24,25 282:1 282:2,4,6,8,10,12 282:15,18,19 285:19,25 287:13 298:15 poll 46:25 48:23 polling 249:18 286:3 290:14,25 291:3 292:2,12 polls 271:20 272:11 273:16,17 pool 245:8,11,13 246:7 271:9 pools 245:11 poor 258:8,22 259:10 267:4 Popkin 124:11 popped 219:7 population 56:7 107:7 108:8,20 109:18,23,24 124:1 124:7 125:12,13 226:21 256:20 258:7,20 portion 231:10	portions 40:25 260:22 position 24:2,4 52:8 55:14 75:4,23 88:9 89:15 115:20 149:5 150:22 positions 22:23,25 52:10 positive 77:1,24 285:15 294:5 positively 293:18,25 294:3 Posner 2:14 6:6,6,15 159:2 257:10,12 275:1 302:9 304:8 304:12 possess 79:22 80:4,11 80:11,20 115:5 120:18 247:21,22 247:24 249:9 252:14 258:21 259:9 286:10,20 292:9 possessing 94:15 possession 140:6 184:3,5 194:13 210:17,24 211:8,18 213:8 228:18 229:3 230:19 231:6 236:23 245:8 246:7 253:14,21 254:7 267:13,18 269:12 269:24 possibilities 154:23 220:19 possibility 108:13 220:20,21 221:9 236:18,19 240:5 241:14,15 possible 55:20,22 92:20 145:17 146:21 151:3 156:2 229:6 possibly 19:11 33:22 144:17	post 3:10 150:25 235:9 236:2,21 post-match 176:13 post-registration 282:21 postdoctoral 22:19 postregistration 5:8 283:21,22 285:2 potential 65:20 95:24 153:1,18,24 201:17 207:8 222:15,20,21 223:7,18 225:3 226:5,14 227:25 240:7 241:2,9 potentially 29:10,13 175:22 207:9 226:8 poverty 70:9,17 practice 179:6,10,14 243:5,9,19 practices 48:24 213:23 214:5,19 284:7,8,14 302:13 pre 196:7 precise 195:15 precisely 121:1 229:11 preclean 212:4 preconceptions 102:22 104:6 114:17 120:9 preconditioning 119:17 predicted 276:20 277:2,3 prediction 184:3,5 predictions 280:20 preface 34:2 prefer 7:8,9 204:25 preference 149:20 150:13 preferences 102:23 104:6 114:17 120:10 preferred 119:8 256:6
---	---	---	--

JEFFREY MILYO, PhD

8/26/2014

31

preparation 36:16 37:2,11 42:4,7,22 42:25 104:17 161:22 162:11 163:7,20 164:19 165:21 166:15 167:9,15 207:24 208:6,10,11,15,19 285:7 288:18 prepare 34:21,23 preparing 307:20 present 3:20 5:14 13:7 81:8 85:23 120:16 226:22 250:19 253:20,23 presentation 50:11 51:6,8,10 53:15 54:10,22 55:4,19,21 56:2,18 57:1,3,5,6 presentations 50:1,2 50:3,9,18 51:3,4 53:1,13 56:24 71:21 presented 56:1,9 79:1 80:6 85:21 86:21 292:22 presenting 132:22 297:11 pressure 111:17 135:17 presumably 173:14 pretty 22:10 288:9 previously 175:7 186:17 231:9 273:5 273:17 283:6 price 18:16 primarily 87:24 211:7 286:10,16 primary 48:4 prime 48:14 Princeton 2:5 principal 67:2 principle 115:3,13 151:23 210:14 principles 19:9 printed 163:24,25	167:1 printout 129:19 prior 38:23 117:1 173:18 175:3 176:15 192:3 193:25 194:6 195:1 195:5 196:8,12,18 196:24 202:10,17 202:19 203:2,13,15 204:1,13 205:7 207:7 208:7,8,20 217:9 231:20,20 234:23 235:3 237:16 239:17 274:11,15 275:14 288:3 pro 154:19 probabilities 266:25 probability 153:16 267:23 294:24 298:24 probably 9:15 10:4 24:22 32:19 34:5 40:6 44:19 46:20 71:21 89:1 163:4 269:8 302:9 problem 29:5,8 30:16 78:9 136:16,17 173:5 207:8 221:1 226:15 266:1 278:7 278:12,18 problematic 4:20 130:24 132:23 140:23 235:19 280:7 problems 76:7,8 87:25 146:25 223:8 223:18 226:8 266:3 279:8,18 280:3 procedural 42:2 procedure 1:25 27:4 27:11 procedures 282:22 283:21,23 285:2 proceeding 27:21	28:2,16,20,23 29:15 77:15 86:4 307:25 proceedings 7:24 8:8 45:21 process 20:8 41:25 46:23 62:4 110:17 132:25 163:3 189:7 200:20,25 201:24 205:20 206:7 208:12 271:12 275:24 287:14 289:19 290:8 processes 212:3 287:12 produce 59:5 76:14 91:25 128:25 129:16,18 147:5 171:19 174:4 196:19 produced 1:15 26:2,7 26:11 28:19 45:4 59:14 74:20 128:6 128:10,12 129:2,7 129:24,25 135:9,11 135:22 156:10 169:21 172:7,20 173:1,12,18,19 174:12,22 175:6 176:10,14 194:6 196:24 200:16 producing 25:8 43:15 59:1 175:3 196:24 203:15 204:1,14 205:7 234:23 235:3 production 173:3,11 176:15 professional 50:16 56:24 64:17 303:12 304:2 professionalism 46:12 professor 7:7,11,15 13:6 36:25 45:17 74:2 104:14 105:1,3 105:16 106:17	130:20 135:2 161:3 177:7 224:24 225:8 225:14 226:17 233:14,16 236:5 243:1,2,18 244:9 254:15 282:12 professors 105:25 279:23 program 14:17,18 programs 75:20 progress 47:5 55:5,9 71:21 project 5:10 18:7,11 18:14 projected 284:13 projects 18:9 pronounce 118:8 proper 52:2 211:17 211:21 212:7 properly 179:13 proposal 57:16 proposition 103:4,23 120:3,5 122:13 148:9 149:13 152:5 158:21 159:4 provide 25:18 84:18 136:22 141:25 154:7,21 158:3 172:2,6 188:3 200:18 208:25 210:5 214:3,17 236:9 240:6 251:22 251:25 254:6 260:25 282:22 provided 35:10 41:12 86:6 87:19 128:16 136:5,7,20 137:4 215:11 236:23 252:24 255:16,24 261:22 262:13,19 262:23 268:13 providing 43:18 83:9 256:5 provisions 276:18 277:1
--	---	--	--

JEFFREY MILYO, PhD

8/26/2014

32

proviso 78:7	28:13 40:2 63:2	135:10,12 138:8	quick 13:21 147:12
public 4:15 45:13,15	68:6 80:23 112:16	139:2 140:2,7,8,10	quicker 99:13
45:22 46:7 50:12,14	120:1 130:11 170:9	140:16,17,22,23	quickly 224:21
50:15,21 51:10	putting 63:16 133:1	141:7,25 156:3,25	231:15 256:16
68:16 74:13,16	199:15	157:16 158:24	quid 154:19
75:23 149:17 150:6	puzzled 31:19	159:11 168:18	quintile 258:17 259:6
151:9,14 152:2,9,20		170:6 171:3,21,23	259:7
173:1 179:23	Q	172:15 178:13,20	quite 25:25 27:23
221:16	qualifications 106:8	179:4 183:11,21,23	28:14 30:14 39:22
publication 57:22	106:13,18,19,23	185:19 186:22	47:22 51:21 57:10
58:3 72:25 187:14	107:2	189:5 195:14 197:6	81:1 117:24 134:20
196:18 286:8	qualified 27:20 28:13	199:4,6,7,8,17,18	144:17 162:13
publications 47:7	106:1	200:12 201:19,25	227:11 239:11
242:19 243:20	qualify 249:25 250:8	202:1 203:23,23	243:14
262:5,8,10,25	quality 78:21 79:25	204:11,23 206:15	quo 154:19
publicly 55:12,14	81:7,17 88:1 92:13	206:23 207:13,13	quotation 296:8
publish 295:10	quantification 91:18	208:18 209:8,25	quote 184:18 221:12
published 58:5 64:9	91:23	210:4 211:11	235:11 245:1
64:13 66:8 71:10,23	quantify 91:17	213:13 216:23	295:13,22
72:4 73:8 124:24	153:17,21 267:11	219:21,23 224:12	quoted 101:24
180:3,4 187:7,10,13	267:15	225:5 234:8 238:20	296:22,24
187:24 188:8,13,20	quantitative 65:1	239:12 240:21,22	quotes 125:3 218:13
189:3,11,13 190:8	253:12	240:24,25 246:4	218:16 295:21
190:18 191:1,8	quantity 40:9 223:4	250:6 254:2,4	quoting 195:25
192:1 243:13	305:5	262:11 271:13	
261:16 298:13,14	question 8:25 25:13	272:4,5,18 273:23	R
299:24 301:9,14	25:17 26:16 30:18	274:25 275:6 276:6	R 2:1 3:1
pull 103:8 132:3	30:23 31:12 32:13	278:17 288:10	race 84:12 94:11
139:24 294:2	40:17 44:4 46:7,10	301:2 302:6 305:16	125:20 126:3,5
pulled 206:24	48:8,12 49:18 50:5	questioning 42:1	127:15,16 145:13
puppy 257:17	51:2 53:10,11 56:20	303:3	175:2 208:4 211:9
purging 218:20	59:8,18 64:6,23	questions 8:11 9:4	211:15 212:16
219:13 220:10	68:15 76:24 80:16	11:18 13:21 35:13	213:9 224:18
221:10	83:10 88:18,22,25	41:15,17,18 67:4,9	239:22 240:3,20
purpose 18:17 30:6	89:9,13,18,23 90:2	67:18 68:3,5,9 89:3	241:6,8,13 259:22
86:17 158:1 194:15	92:18 93:7 95:4,8	93:8 95:6 97:10	260:1,5,16,24
256:13	95:14,19,23 97:23	104:15 111:11	261:12,15,21
purposes 13:7 83:3	100:12,18 101:4,11	113:9 114:17 115:3	262:14 263:13
108:20 109:18	101:16,19,23 102:6	119:2 120:23 121:2	264:8,25 265:4,9,11
139:16 192:9	102:10,12 108:22	121:6,10 122:17	265:15 266:13
256:10 286:14	109:3,13 111:5,8	128:18 139:25	267:12,17,23,23
pursuant 1:24	112:9 121:17	140:3 239:11	268:5,10 269:13,18
purvey 173:25	122:14,21 127:13	259:24 276:4	269:25 295:19
purview 174:15	129:9 130:3,12	302:16 303:1,21,24	296:3,16
put 6:2 8:6 24:12,21	132:7 134:12,16	304:19,25	races 84:10 213:14

JEFFREY MILYO, PhD

8/26/2014

33

261:18 racial 70:3,9,18 73:20 81:13,20 82:7 82:19,23 83:22,24 84:7,14,25 85:12 86:9 175:1 210:16 211:18 213:18 228:19 229:2,14 230:10,20 231:2,5,7 236:21 240:7,9 245:7 246:6,9 258:9 258:23 259:11 262:12,20 263:8 265:18 267:13,17 268:14,18,19 269:11,23 298:2 racialized 83:17,23 racially 87:4,17 89:7 raise 93:11 106:5 159:11 222:25 240:18 243:12 raised 59:16 107:1 213:17 241:15 268:12 raises 120:20 raising 92:18,25 Rand 18:1,2,22 rate 20:19 58:17,21 60:1,2,5 110:22 111:6,7 220:23 227:22 228:3,5 258:14,15,18 259:21 271:21 272:12 273:5,16,18 273:24 276:17,24 rates 85:23,24 111:11 122:25 123:1,6 125:4 220:25 253:14,20 254:7 260:4 261:1 293:16 293:24 rational 150:23 raw 198:12 RDoggett@trla.org 3:17	reached 55:13 reaching 286:2 reactions 233:6 read 29:25 30:4 31:6 39:14,15,16 40:15 53:9 71:14 88:23 89:2,12,22 101:20 111:17 116:10,13 148:23 161:20 162:10,15 163:1,2,6 163:17,19,21 164:12,18 165:5,20 166:7,11,14 167:8 167:14,24 168:5,8,8 168:15,18,20,21,23 171:15,24 186:6 190:6 191:6,15 228:23 231:13,18 231:23 232:12,16 232:19,24,25 233:2 233:9,10,13,17,20 234:8,10,13,16,22 235:2,5 242:15 272:2,5 275:3 276:23 285:7 304:11 305:10,18 306:20 reading 39:13 71:15 78:24 87:14 103:2 105:14 114:19 166:4 182:25 233:8 297:16,24 300:19 ready 305:14 real 185:25 245:2 249:8 really 34:8 81:1 101:3 121:19 149:11 162:19 165:11 169:25 171:9 232:3 251:4 reason 9:7 76:23 97:8 193:14 207:10 217:6 235:18 240:17 242:9 248:8 259:5 280:4 300:21	300:23 301:3,4 306:4 reasonable 79:20 80:10,19,22 156:12 303:13 reasonably 203:21 300:16 reasoning 4:15 102:20,25 114:23 115:15,18,25 116:2 119:8 120:6,7,13 reasons 91:14 133:22 159:16 211:2,10 239:20 307:18 rebuttal 4:8,9,10 10:10,11 25:6 175:4 recall 13:13,16 14:14 18:8,10,24 19:12,16 21:21,24 26:23 27:10 30:2,3,9,10 30:12,19 31:19,21 31:23,24 32:1,17,18 32:23,24 34:8,9,11 34:13,15,17,19 35:15 36:3,4 38:11 38:18 43:1,13 47:22 50:10,13,17 54:14 54:21 55:20,24,25 56:8 57:4 60:3,14 60:20,24 61:2,6,11 61:15 62:24 72:9,17 72:18 85:19 90:21 91:6 105:14,18 111:21,25 112:1,5 112:10,11 113:17 114:10 115:15 116:5 122:16 124:19,25 129:8 131:23 136:8 145:7 146:17 149:12 162:1,22 163:22 165:4,12,19 166:4 169:6 170:21 171:18 173:15,21 177:18 194:13	205:8 209:8,11 218:9 222:8 224:16 229:1 241:20,21,23 242:6 244:12 247:8 261:20 284:20 285:6,11,13 286:4 289:20,22 291:20 299:19 recalling 40:21 54:16 164:22 165:9 193:11 226:19 254:4 receipt 196:9 307:16 receive 11:19 24:13 52:19 75:9 173:17 196:22 250:25 received 12:11 39:1,4 39:6 41:11 52:17 75:11,13 135:23 175:18 246:1 282:11 receives 221:15 receiving 173:8 195:1 195:23 recess 36:24 74:1 104:13 135:1 183:7 206:3 230:16 257:15 recheck 133:17 rechecking 126:16 recitation 186:15 recollected 206:13 recollection 10:19 14:4,9 15:1 16:1 17:3,11 19:2 24:23 31:15 32:20 34:12 38:10 43:7 47:14 54:9 55:1 56:5,12 56:13 57:8,17 58:9 61:22 71:22 72:14 72:21 100:11 111:1 111:20 114:6 124:17,23 126:14 128:13 130:2 132:19,21 135:18
---	---	--	--

JEFFREY MILYO, PhD

8/26/2014

34

135:20 162:12,18 164:1,14,21 165:10 166:2,13 167:8 181:5 182:22 187:17 189:20 191:24 205:21 225:11 247:6 260:17 277:19 291:21 recommendations 105:17 reconstruct 147:19 147:21 reconstructed 147:22 record 6:2 35:22 61:3 90:7 99:11,13 102:4 112:23 127:16 128:1 131:14 133:25 147:13 159:13 160:12,16 160:25 167:4,6 170:12 178:19 183:9,19,20 188:5 206:2 218:1,2,3 224:8 237:15 238:8 239:16 243:23 260:10 275:4 302:10,11,13 305:9 305:17,23 307:12 records 100:22 101:8 101:22 102:9 173:2 173:9 174:12,14,24 175:8,9,11,18 176:6 195:2,6,20 196:9 231:4 237:1 246:1 252:23 261:8 recruitment 46:24 redirect 151:17,18 redistricting 69:14 69:17 redline 11:11 36:7 98:22 143:7,11 redlined 11:4 99:1 reduce 270:5 285:21 reduced 211:24	271:22 272:13,19 273:6,19 274:14 reducing 148:2,3 153:24 reductions 285:15 286:1 Reed 34:16 reelection 20:20,21 reexamined 35:10 41:8 refer 92:2 93:20 111:2 148:19 161:16 240:15 265:6 referee 47:5 reference 45:25 180:14,15 190:23 226:21 238:23 270:23 281:11,14 286:4 289:4 referenced 185:17 203:7 285:10 references 180:12 referencing 166:5 180:17 279:22 283:3 referred 84:25 referring 9:15 25:12 32:9 45:23 48:22 49:4 65:4 77:11 87:6 91:10 111:8 113:4 126:1,2 130:7 131:25 136:10 138:3,23 158:9 161:23,25 162:9 163:16 198:14 218:23 220:23 224:1 228:21 229:21 230:21 238:9 242:3 245:13 246:8,19 250:2,15 253:3 254:2 257:6 258:16 260:12,13 277:9,11 refers 137:25 177:15	reflect 135:13 188:5 192:20 194:8 195:22 196:7,7 206:22 275:5 reflecting 165:2 reflects 194:25 196:13 Reform 284:18 reforms 46:19,22,24 50:22 284:24 refresh 7:22 31:4 34:11 47:25 119:4 124:22 164:23 165:22 166:2,3 171:20 181:4 189:20 205:21 220:5 225:11 230:5 244:21 247:6 255:20 256:24 260:6 265:6 277:19 289:3 291:21 298:25 refreshed 54:25 refreshing 191:24 219:16 refusal 302:15 refuse 94:10,12 96:11 refused 95:12 141:25 145:12 305:1 refusing 229:20 regard 105:17 133:20 146:2 169:18 211:16 213:24 214:6 232:11 234:21 235:1 296:22 regarding 43:20 78:22 120:23 197:21 198:1,11,17 199:9 202:14 214:4 214:18 263:18 268:9 276:6 294:12 regards 260:25 regime 299:17 300:22 301:1	regimes 294:25 298:24 register 287:4,6,15 288:20 289:9,24 290:3 registered 5:8 99:22 100:10,24 101:12 181:17 182:9 184:13,19 185:9,25 187:2 209:11 210:21,22 211:5,6 223:13 238:13 241:19 242:1,11,19 244:18 245:3 246:25 247:21,24 248:23 250:18 286:25 287:3,4 289:15,20 297:20 registering 102:9 287:18 288:1,12,23 289:1 registers 289:18 290:11 registrants 220:12 244:6 registration 46:13 50:23 85:24 176:23 180:21 181:11 183:15 184:1,7 198:20 199:13 201:4 213:24 214:6 214:10,22 215:1,7 217:17 224:25 225:1,9,10 227:15 227:23 228:5,8 237:15 239:16 244:10 248:7 266:10 286:22 289:7 290:8 308:8 regression 245:9 246:11 263:8,12,22 264:6,14,21 265:1,5 265:10,23 266:5 268:3 regression-based
--	---	--	---

JEFFREY MILYO, PhD

8/26/2014

35

299:23	295:16,25	142:24,25 144:11	131:10 133:1,10
regressions 264:2	remember 15:11	145:12 254:3	141:5,17 144:5,10
regular 14:14	17:23 18:19 21:5	replications 93:23,25	144:16 146:3,11
regulations 44:17	31:7,8,9,11,13,16	94:1 137:8 141:15	148:11,19 149:9
46:11,14,16,16,19	31:20 38:2,25 42:11	144:4,16 147:3	150:9,16,18,19
47:1 62:23 63:13	49:19 50:4,6,24	reply 149:9 164:8,10	152:3,6,16,24
reiterate 304:17	67:24 72:5 141:24	167:25 252:7	153:22 156:10,18
relate 47:8 130:16,18	181:1,14 210:3	report 4:18 9:21	160:18 161:16,16
286:16	241:23,24	11:20,22 12:16	161:21,22,24,25
related 40:7 44:16	remembering 140:8	13:12 18:12 24:21	162:4,6,8,10,10,11
45:18,19 46:18,24	remind 70:13	25:1,3,11 26:3,8,11	162:12,17 163:1,2,4
67:9 112:9 172:16	removal 215:6	26:14,18,22 28:19	163:6,8,12,13,13,16
173:10,10,18	remove 202:9,21,25	35:4,16,17,21 36:1	163:19,20,21,23
182:19 200:4	203:12,24 204:12	36:6,7,12,15 37:14	164:3,9,13,18,20,22
285:20 286:2	205:6 214:21,25	38:4,6,6,7,7,11	164:25 165:1,3,5,6
307:24	245:1	39:12 40:7,10,12,24	165:10,20,21,22,25
relates 66:6 75:19	removed 193:13	41:1,3 43:16,19	166:8,14,16,17
relating 46:25 51:22	202:25 238:7	46:4 55:17 57:23	167:8,10,11,14,16
131:3 143:25	removes 216:11	58:1 59:5 61:13,13	167:25 168:2,13,17
relationship 22:24	222:1,6	61:20 62:2,8,18	168:24 169:1,3,6,8
74:18,22,25 75:7	removing 215:22	76:9,10 79:5,6	169:15,17,23 170:4
76:1 299:21 300:2	238:11	80:15,21 81:7,16	170:14,16,21,22
relative 274:15	render 94:9 186:10	82:2,15,21,23 83:3	171:4,7,15,19,23,24
281:18 297:14	rendered 98:13	83:10,20 84:4,21,22	173:13,16,18,19,20
relatives 153:3,20	186:19	85:2,9,16 86:5,20	174:5,16,19,19,20
155:18	Reneé 1:21 307:4	86:23 87:25 90:15	175:4,16,22,25
Relevancy 272:15	308:7	90:21,24 91:5 92:3	176:8,15,19 179:3
273:21 274:18	renew 275:16	92:4,5,6,10,15,22	179:22 180:1 182:4
292:6	renewed 75:13	93:20 94:12,14,15	182:5,13,14,19,21
relevant 40:6 41:2	repeat 26:16 31:5	95:1,17 96:2,11	184:11 185:14,18
109:23 139:2	95:4,14 109:13	97:13 98:8 104:17	185:23 186:4,5
165:15 169:17	149:25 197:17	105:8,17,21,25	188:11,18,24 189:8
205:25 206:23	262:11 272:4	106:7,11,15,21,22	192:15 193:13,14
207:1 227:5 229:20	repeated 70:5	107:3,5,16,19,22,24	194:17,20,21,23
233:5,6,8 238:23	repeatedly 85:2	108:10,11,12,16,19	195:17,21 196:7,12
249:5	189:6	109:1,7,16,22 110:1	196:18,20,24 197:9
reliable 24:22	repetitive 120:22	110:7,7,11,14,18,21	197:19,20,25 198:7
reliance 200:21	repetitiveness 121:14	111:2,15,21,23	198:10,17 199:8
relied 177:5 178:14	replicating 178:21	112:7,13,17 113:24	200:7,7,8,17,17,18
189:14 190:19	replication 94:4,6,8	114:2 115:22	200:21,22 201:7,9
191:2,9 199:25	95:3,10,11,18 96:2	119:22 120:1,18	202:5,13 203:10
261:21 262:12,22	96:5,9,10,24 97:2,5	121:5 122:4,8	204:2,7 205:17,22
263:2,5	97:15,17 113:10	123:11 124:4	206:5,8 207:4,10,23
rely 173:20 190:10	114:5 130:1 141:9	125:20 126:4,19,21	208:19,25 209:7,12
226:25 293:23	141:14,16 142:23	127:2,5,7 130:17,19	209:13 210:5,10,15

JEFFREY MILYO, PhD

8/26/2014

36

211:3,11 212:9,25 214:9 216:15 217:1 217:5,8 218:13,17 220:21 221:8,13 222:4,10,11 223:10 223:17,22,25 224:3 224:13,17 227:1 228:6,22,23 229:8 229:10,19 231:13 231:18,19,24 232:2 232:13,16,20 233:1 233:2,18,23,25 234:12,17,24 235:3 235:5,7,12 236:20 237:5,13 238:4,22 239:2,6,14,19 240:6 240:13,18 241:6,11 241:16,17 242:3,5 244:13,23 245:14 245:17,19 248:5 249:21 250:3,11,15 250:16,21,24 251:1 251:7,10,10,17,18 251:20 252:1,7,13 252:20,22 254:14 254:20 255:2,7,16 256:18 257:18 259:16,18,20,23,25 259:25 260:3,7,14 260:17,22 261:3,6 261:11 264:19,23 265:21 268:13,25 269:10 270:2,13,15 276:2,5,10 277:6,9 277:14,15,18,22,25 284:20 285:8 287:10,16,21 288:6 288:22 291:12,13 291:16,22 292:15 293:14,16 294:9 295:11,14 296:8,9 296:11,23,24 297:1 297:25 300:10 301:13 reported 1:22 97:12	98:7 114:1 122:10 142:16,17 209:10 reporter 8:4,21 53:11 89:5,14,24 142:7 307:5 reporter's 4:4 13:4 307:1 reporting 96:7 117:25 252:17 reports 11:24 13:7 25:8 35:5 37:2,5,6 37:10,15,17,21,24 38:1,19,21,23 39:1 39:6,16,17,19 40:17 40:18 43:15 45:4 47:5 49:8 59:1 61:23 62:7,14 74:20 78:5,20 84:18,24 85:5 87:3 144:2 148:13 149:11 152:14 162:2,23 163:9 164:15 165:9 166:20 167:19 169:21 170:2 171:10,12,14,18 175:14 190:24 191:14 192:23 193:23,24 196:8,13 196:16 200:2,11 202:17 229:18 231:1,7 232:10 245:25 246:9 250:6 252:7 253:1,2,11 267:20 270:22 284:11 286:5 289:4 298:6 represent 11:1,18 129:13 131:12 161:5 162:3 163:11 164:24 180:13 227:13 245:2 291:23 representation 278:24 Representatives 1:18	2:3 represented 12:3 36:2,5 278:2 representing 12:9 227:12 295:4 represents 254:20 255:3 request 114:10 129:7 131:17,19 135:21 135:23 136:3,21,23 136:24 302:22 303:2,10 requested 135:7 136:8 307:15 requests 131:15 135:16 required 79:22 80:12 249:3,17 250:18 286:20 299:19 requirement 297:15 requirements 249:12 293:1 297:10,11,13 297:23 requisite 91:14 94:15 138:16 142:22 239:21 reregister 249:4 rereview 285:8 research 15:21 18:5 18:6,18,21 19:23,24 45:17 47:3 55:3 67:10 70:19 76:14 145:21 146:4 191:25 192:9 201:3 201:13 217:9 241:18,25 242:9 264:17 researcher 76:13 93:13 reserve 304:18 reside 249:8 resided 92:4 96:8 113:25 residence 94:13 96:12,15	residency 96:12,15 resident 96:23,25 residential 70:3 residents 96:20 residing 186:1 resolved 112:5,12 respond 140:7 172:15 responded 141:12 respondent 92:10,15 92:22,23 95:1,3,5 95:10,15,18 102:6,7 121:16 respondent's 118:21 118:24 respondents 92:2,3 93:1,17,17,18 94:2 94:11,14 96:1,6,11 97:11 98:6,12 99:22 99:24 100:21 101:3 102:20,21 103:4,23 104:4,8 113:10,20 113:21,23,24,25 114:3,15 120:8,22 121:20,22 122:5 125:20 126:4 127:14,16 128:21 129:20,21 131:20 131:25 132:13,17 134:1 137:12 139:19 140:11 142:12 144:5,12,14 144:23 145:14 295:1,9 response 43:16,19 88:18 95:5,8,22 108:2 110:22 111:6 111:7,11 115:10 122:25 123:1,5 127:15 128:7 129:7 129:15 131:17,18 135:10,12,22 136:20,22 138:22 139:2 166:23 169:22 170:12
---	--	--	--

JEFFREY MILYO, PhD

8/26/2014

37

responses 93:2,9 94:4 94:9 97:9 98:13 102:19 110:15 111:5 114:23 116:2 116:16 117:17 120:12 135:13 140:23 141:8,20 142:21 146:1 169:8 169:9,12,13 170:5,7 170:22,24 171:1,4 responsibility 159:12 159:18 160:10,12 160:15 responsive 44:4 51:2 56:19 59:17 112:8 128:25 136:25 200:12 209:24 responsiveness 281:13,16 rest 218:13 restriction 295:2 result 33:9 81:12 174:13 206:12 229:20 268:16 results 57:18 92:11 92:23 93:10 140:1 174:13 176:5,5 200:19 204:6 237:25 241:3,5 283:3 resume 14:1 retained 26:15,19 32:3,5 33:18 43:4 43:10 45:1 return 180:16 returned 307:15,17 review 35:17 37:5,10 39:3 45:5 48:23 53:3,14,16 55:7 78:19 109:1 134:6 134:12,15 149:8 190:19,22 191:2 192:4,6 206:5 219:15 220:4 238:4 247:11 249:14	251:6 291:13 299:8 reviewed 35:4,4,16 36:16 37:2 148:13 171:22 181:7 reviewing 18:11 36:18 119:4 162:16 232:2 revised 189:3 192:22 231:17 revision 187:24 188:14 189:10 revisit 100:8 revocation 142:5 revoked 131:9 133:2 137:21 138:15 139:4,15 140:4,19 141:13 144:25 reweighting 148:5 Richard 3:3 6:10 Richard.Dellheim... 3:7 RICK 1:7 ride 154:21 155:2 rides 154:8,25 ridiculous 150:23 right 8:15 11:8 12:17 12:18,21 21:11 26:2 29:5,8,8 36:15 43:3 46:9 61:9 78:23 90:8 91:20 93:25 98:11 103:16 104:11 106:2 111:24 116:16 117:16 118:14 119:10 122:24,25 125:6,14 128:23 133:10 138:9 142:6 151:21 158:11,20 169:2 170:15 172:11 174:1 187:11 196:20 225:1,10 247:7 254:20 255:2 289:9 299:9 rights 2:15 73:9,17	Riker 278:2 279:17 ring 22:15 Rio 3:15 rise 283:19 RMR 308:7 road 57:17 Robert 3:14 7:1 role 43:11 67:3 77:23 rolls 215:15,23 216:2 216:3,10,13 217:17 218:19 220:17 221:20 222:1,7,16 226:2,6,11,13 Ronald 3:9 Ronny 6:16 34:18 Ronny.Keister@oa... 3:12 Room 3:4 Rosenberg 2:3 4:2 6:1,3,15,18 7:6 9:19 10:7,25 13:11 33:8 36:21,25 42:3,16 46:5 53:9,19 73:23 74:2 76:19 77:8 78:11 82:17 83:11 83:16 89:2,9,12,18 89:22 90:2 99:6,19 102:2,5 103:11,14 104:11,14 109:2 112:19 117:8 118:5 119:6 126:24 127:20,23 129:5 130:11,20 134:8,17 134:24 135:2 143:4 147:11,14 150:2 155:5,6 157:17 158:5 159:3 160:19 161:6 164:2,5,8 183:5 303:14 305:23 round 52:21 row 4:20 127:9,11 130:4,16,23 131:3,8 131:19 132:10,14 132:22 134:1	135:22 137:12,16 137:17 139:3 rows 135:12 rubber 57:17 rule 161:15 ruled 29:16 rules 1:24 161:6 302:17 rulings 29:11,14,21 run 17:22 144:15 296:20 running 13:14 145:6 164:16 189:18 208:21 runs 144:15,22 146:15
S			
S 2:1 3:1,9 4:6 Safety 221:16 Safety's 173:1 sake 222:15 223:1 226:5 227:25 salary 21:12 same-day 46:13 50:23 sample 68:15 109:23 147:17 San 19:5,14 Sanchez 4:13,21 35:11 38:4 41:4,9 90:18,24 91:12 99:21,23 104:9 106:1 108:19 109:10,17 110:9,15 110:22 113:1 121:3 122:4 125:19 126:3 127:3 129:3,25 130:24 137:5 138:14 139:13 141:18 146:22 193:10 Sanchez's 123:13 126:19 129:17 Santa 18:1			

JEFFREY MILYO, PhD

8/26/2014

38

satisfactory 44:5	146:4 148:7 176:21	33:22 34:6,7 38:6	264:2 274:21
save 112:21	177:6,13 178:15	61:13 66:20 94:24	277:18 284:22
saw 125:16 190:22	180:19 181:8	117:4 128:1 189:13	294:18 295:5,18
saying 8:3 12:20 34:2	183:13,24 191:9,17	190:8 218:1 220:20	296:2,24
50:19 66:2 68:4	201:13 203:9	227:7 255:1	seeing 111:16 112:13
81:1 87:12 93:4	241:18,24 242:9	secondary 145:21	123:11 125:9,11
98:11 102:5 108:6	scholarship 115:25	148:8	129:8,11 186:12
116:18 120:19	204:4 212:2	Secretary 100:23	244:12 286:4
134:10 137:18	school 2:11 17:24	101:8,9 102:8	seen 38:23 83:25
151:16 176:7 183:2	19:21,22 24:1,3,5,7	213:23 214:5 215:5	127:5,7,25 128:3
196:22 203:18,20	51:10 118:9 179:24	216:1,10 221:15,20	177:9 197:18
212:6 223:20	258:18 284:9	221:25 222:6	256:22 286:6 298:5
252:17 275:18	science 22:21 50:7,8	section 19:15 90:25	selection 27:4,10
287:22	54:11,18 65:1 67:8	91:3,4 105:8 144:9	self-identify 129:22
says 79:3 87:4 115:23	73:9,16 179:1,6	166:5 188:15	132:13
121:25 126:6	242:23 243:5,10,19	198:14 204:7	self-reported 57:13
130:23 138:13,17	244:1 263:13 264:8	223:25 260:11	225:1,9 227:9,18
158:12 219:11	264:15,17 279:2,15	261:2,6 277:25	self-reporting 261:19
220:8 235:14,16	279:25 281:25	sections 19:11 205:25	semantics 119:19
247:19 252:19	282:4,6,8,10,12,16	Security 215:15,22	semicolon 142:11
255:14,15 256:12	282:18,19 285:20	see 11:5,11 14:5,8	seminar 51:3,4,6,18
259:5,13,25 277:18	286:1 287:14	18:8 20:1 21:13	75:9,14
296:13	sciences 179:11,14	38:3 39:11 46:10	seminars 51:17
SB 78:23 79:22 80:4	scientific 79:21 80:10	50:6 51:6 52:20	Senator 5:7
80:12,20 86:18	80:19,22 156:13	53:22 58:19 68:14	send 11:4
87:18,19 88:3,10,10	scientist 179:5 189:2	72:12 86:24,25 87:1	senior 52:6
89:8,16,17 139:16	216:16 255:13,19	91:15 92:7 93:8	sense 10:14 65:4
192:19 193:7,21	259:8 262:2,24	94:3 98:20,22 99:8	80:25 118:18 145:5
194:12 206:20,23	263:3 281:21,24	99:8,25 100:1,25	153:6 155:15 158:1
207:1 210:16	282:1,3 288:25	101:4,5 113:4	168:10 209:13
212:15 228:18	292:17	120:24,25 123:13	258:4 266:5
230:19 245:4,8	scientists 242:18	124:7 128:3 134:16	sensitivity 93:2,14,15
246:6 249:9,12,17	scope 61:11 63:6	139:19 140:12	93:21 145:25
250:19 252:15	175:16,22 260:14	141:16 145:10	147:25 202:15
253:21 254:7 266:4	Scott 5:7 34:12 42:10	146:10 148:24	205:12,15
270:17,22 286:9,11	scratch 132:6	153:3 159:14	sent 11:2 36:8 134:13
286:15,17,20,21	screen 99:21 219:3,6	165:10,11,22	136:9 138:21 172:9
287:16 292:10,11	219:10	166:17,25 167:11	sentence 91:9 99:20
scenario 155:23	screening 92:13	169:1,7,16 170:21	115:21 142:12
scenarios 154:22	95:19 97:23 100:9	171:6 174:22 175:1	143:15,17,18 220:8
scheme 88:5	100:12,18	182:14 186:13	220:18 242:7,13,16
scholar 77:24	searching 155:1	188:1,22 199:24	296:7,8 300:20
scholarly 64:25 68:19	seasons 16:5	206:18 209:9	sentences 100:2,6,16
71:23 72:22,24	seat 17:20	218:22 230:8	269:4
122:13 145:20	second 4:19 17:24	231:11 242:2,7	sentencing 46:24

JEFFREY MILYO, PhD

8/26/2014

39

separate 77:2 269:23 271:13 303:12 September 32:21 43:6 sequentially 141:6 serially 42:1 series 113:8 140:3 serve 111:17 served 28:18 service 115:10 serving 27:13 SES 267:1 set 115:19 120:23 129:2,17,24,25 130:4 131:19 134:18 208:3 251:25 256:1 sets 131:8 seven 30:15 66:18 129:21 132:12 182:24 191:21 302:5 303:9 304:15 305:15 seven-year-old 187:16 severely 87:11,16 89:6 shaded 234:6 share 20:22,23 223:22 224:14,17 228:7 shared 118:23 Shaw 243:1,2,18,18 244:9 shed 127:12 shoehorn 278:23 short 55:22 61:20 shorthand 1:22 307:4 307:11 shortly 10:11 shoulder 8:20 show 31:4 112:20 172:21 187:9 206:25 229:20,23 249:17 274:14	showed 169:3 170:16 271:20 272:11 273:15,17 301:17 showing 98:3 103:14 117:8 127:23 129:5 219:22 shows 98:23 284:5 Shrugs 8:19 sic 26:3 side 155:11 side-bar 199:19 200:15 sides 197:1 sign 283:9 304:11 305:18 signature 4:4 11:16 306:1,21 307:14,17 signatures 297:12 significance 81:9 146:24 147:2 268:17 significant 269:14 293:17 299:16 significantly 174:13 similar 94:8 131:2,19 132:16 165:25 177:1,3 197:24 198:6 227:22 298:2 299:22 similarity 253:8 similarly 163:12 265:10,12,16 simple 133:7 226:6 280:21 281:2 288:9 304:25 simplistic 279:8,19 simply 108:6 143:6 180:4 227:22 238:7 247:22 288:1 single 158:20 159:4 165:1 232:24,25 233:5 234:13,14 248:18 249:3 283:1 285:5 sir 118:18 160:23	170:3 218:24 sit 108:23 162:25 187:19 247:7 sitting 19:2 27:6 31:14 32:20 62:10 78:10 101:9 111:24 131:24 182:16 186:8 225:19 229:9 situation 159:18 six 25:22 158:6 six-year 158:10 Sixth 1:23 2:8 size 148:3 197:21 198:1 199:25 285:11 Skepticism 4:11 skimmed 171:11 skip 257:16 skipping 112:21 skips 41:12 slant 117:13 sleep 34:24 161:9 slices 212:21 slight 162:5 slightly 148:12 slope 295:8,12 slow 66:20 small 165:1 280:12 280:22 281:13 285:3 smaller 44:11 147:16 147:20 283:8 smallest 284:14 snapshot 206:22 207:1,5,14,16,19,22 snippet 218:10 242:15 so-called 137:5 social 65:1 70:20 73:9,16 154:6 178:25 179:5,6,11 179:14 189:1 215:15,22 216:16 255:13,19 259:8 262:2,24 263:3	288:25 292:17 Society 50:12,14,15 socioeconomic 283:18 298:7,9 solely 178:11 269:24 somebody 105:1 sorry 10:9 16:17 26:16 32:8,10 53:6 55:6 66:20 104:25 125:21 134:9 136:15 137:23 138:2 144:21 156:23 157:15 158:23 164:2 171:21 208:8,16 233:24 247:15 266:20 293:20 304:4,6,21 sort 15:5 42:2,25 53:16 64:5 75:18 77:23 86:22 105:2 142:20 145:3,7,8,14 145:16 159:10 173:5 178:11 295:5 sound 57:14 62:25 63:14 116:20 sounded 57:2 105:15 114:19 sounding 104:21 sounds 27:22 28:3 54:24 57:15 63:9 116:19 117:2 179:16 195:3 216:18,19,20 271:14 283:16 288:6 source 123:18 129:12 223:2 sources 79:6 103:3 128:15 223:8,18 270:9 South 190:20 191:3 191:10 SOUTHERN 1:1 Spanish 265:17 266:9
---	---	--	---

JEFFREY MILYO, PhD

8/26/2014

40

speak 47:6 81:17 84:21 85:20 90:7 99:10,13 106:3 121:4,19 150:16 152:23 169:24 206:14 270:22 287:9 304:13,15 speakers 51:24 54:7 speaking 20:3 34:9 44:12 45:12 76:17 81:7 84:8 85:24 101:3 102:8 165:16 209:3 263:10 speaks 82:21 83:21 150:10 152:3 276:2 specific 18:6 31:1 33:2,15 34:1 42:25 104:2 105:19 119:2 121:8 122:16 124:16 126:14 129:9 130:4 132:10 137:12 139:25 149:12 152:17,19 154:16 166:22 170:4,5,5,6,7 194:18,24 195:18 195:25 198:5 199:25 200:23 201:14,22 205:18 206:6 208:23 210:8 223:9,25 226:19 228:21 229:19 240:19 242:3 244:20 266:18 281:8 specifically 18:19 51:13 54:5,14 55:24 56:10,15 62:24 65:22 70:12,17 71:11 93:16 100:9 100:14 111:2 122:20 128:19 129:14,17,19 131:7 134:18 136:25 138:23 140:3	141:20 146:3 152:15 177:16 198:15 209:12 218:9 222:8 238:5 260:19 279:21 302:22 303:10 specification 146:17 230:22 296:18,20 specifications 299:12 specifics 30:9 31:8 34:8 181:1 277:17 specifies 134:1 specify 127:14 speculate 86:13,15 288:7 speculates 217:15 speculating 221:1 speculation 122:2 155:4 235:15,17 250:13 268:11,20 272:15 273:21 274:19 287:8,21 290:6 293:10 speed 189:7 speeds 149:21 150:15 spend 162:16 232:1 238:4 251:16 spent 60:4,8 158:14 158:16 169:25 spirit 50:5 51:1 56:20 59:18 68:14 111:7 178:20 197:6 206:10 spit-out 129:19 spoke 152:15 287:20 291:12 292:14 spoken 48:24 124:3 160:17 216:14 spreadsheet 133:4 168:7 spring 15:17 19:13 spurred 114:10 St 22:20 stage 164:17 stance 77:5	stand 103:4 177:11 198:9 standpoint 98:5 stands 158:21 159:4 Stanford 13:23 14:17 14:19 15:13,18 16:1 16:8,15,22 17:8,13 17:14 19:21,22 21:6 21:15 22:11,17,24 start 14:6 39:20 102:1 112:3 132:6 148:22 153:17 176:17 257:4 273:9 277:11 started 256:19 starters 44:6 starting 122:6 142:8 158:24 256:17 starts 222:14 state 1:16,21 2:2 3:9 6:3 19:6,14 20:2,5 20:13 25:9 29:24 32:3,6,15 33:10,18 33:25 47:11 55:12 55:13,25,25 57:12 58:15 59:4 78:19 94:13 96:11,14,21 96:24 100:21 102:8 122:20 156:17 157:8,14 172:2,6,25 174:3 176:14,21,23 178:1 180:21 181:10,19,21 183:14,25 184:7,15 184:20,22 190:15 212:24 213:1,24 214:5 215:5 216:1 216:10 217:14,17 220:14 221:8,15,20 222:1,6,16 223:11 226:6 239:3,20 241:17 244:24 248:18,23 251:21 258:6,19 266:12 269:10,17 279:12	280:11 282:21 289:2 290:11 293:15,18,25 294:13 297:17,25 302:12 303:22 307:2,5 State's 100:23 101:8 101:10 State-issued 259:9 stated 95:15 97:16,21 135:21 141:10 175:13 181:20 184:25 185:2 187:1 198:5 229:17 245:5 266:15 276:13 280:17 statement 114:22 149:24 151:20 177:1,3 181:24 185:12 216:17 217:19,24 236:13 239:25 242:3,5 267:6,10 281:12 282:25 292:18 294:2 300:22 statements 40:7 states 1:1 3:2 6:9,11 6:13 56:1,3,7 58:15 99:23 103:23 161:5 192:11 209:11 218:18 219:12 220:9,14,22 221:9 242:10 277:15 283:20,22 297:9,19 307:22 statewide 280:19 281:5 stating 264:11,12 296:25 297:15 statistical 64:2,7,8,15 64:21 65:6 73:5 80:7 81:9 146:23 147:1,7,24 268:17 269:15 270:4 296:21
--	--	--	---

JEFFREY MILYO, PhD

8/26/2014

41

statistically 269:14 283:8 293:17 299:16 statistician 64:1,3,16 statisticians 64:5 statistics 63:20,21,23 64:10,11,12,14,19 64:24 215:4,12 status 94:12 173:10 228:9 266:19,21 283:18 298:7,9 Statute 5:3 stayed 23:14 step 201:1,14 202:2,7 225:6 227:7 255:11 Stephen 5:5 67:1,14 67:25 161:21 steps 200:23 201:22 202:14,17,21,25 203:12,19,20,24 204:3,5,12 205:4,5 205:8,9,11,14,18 206:6 207:24 208:7 208:10,11,20,23 211:23 213:2 257:24 Steve 231:16 Stewart 190:18 191:1 192:2 stick 85:8 stolen 140:5 stop 94:24 151:19 177:22 240:21 store 150:25 straight 54:19 straightforward 147:7 strange 64:5 Street 1:23 2:8 strict 294:25 stricter 297:22 strictest 297:10 strictly 101:2 102:7 strictness 298:23 strike 88:7 107:4	115:19 133:18 141:11 144:18 strongly 78:10 120:17 201:12 struck 101:21 student 67:8 students 18:4 studied 45:23 49:23 49:24 56:9 71:12 84:13 85:25 287:15 291:1 studies 20:16 44:15 46:11 47:3,19 48:17 48:18,20 53:2,14 71:7 103:9,17 119:23 149:15 150:4 154:2,3 176:21 177:13,21 178:4,6 179:1,9 244:3 283:5 285:10 285:23 293:15,22 293:23 294:1,4,5 study 15:22 48:14,16 49:2 55:2 58:6 65:5 71:8 72:1 73:13 81:12 84:15,17 93:13 103:22 108:14 115:16 153:23 154:16 156:7 158:20 159:4 159:9 177:8,15 179:6 180:19 181:9 181:13,13,22 182:2 183:13,24 184:2,24 217:15 223:12 225:14,20 226:20 227:17 243:13 283:11,13,15,24 299:1 300:4,5 301:10 Study/Barreto 4:13 studying 71:13 stuff 75:19 138:7 304:22,23 subject 19:1 102:19	106:14 114:23 120:12 122:6 148:13 283:12 subjected 120:22 submit 56:25 60:7 67:4 215:4 289:21 submits 236:6 submitted 13:12 57:21 58:2 60:18 61:1,16,19 78:20 87:3 127:2 submitting 68:8 231:20 235:9 236:1 236:11,16 subpoena 131:21 132:18 135:8,14 137:13 138:22 subsample 147:18 subsamples 67:5 148:4 Subscribed 308:3 subsequent 58:16,25 187:23 188:14 206:21 207:5,14,21 298:12 subsequently 188:20 substance 32:24 81:16 90:22,23 181:5 substantial 118:21 substantially 87:20 151:8,13,25 substantive 13:16 69:18 70:7 73:6 91:1,3 successfully 238:15 sufficient 81:1 87:11 87:16 89:6 108:1 123:6 171:9 205:3 274:8 sufficiently 100:17 108:5 123:10 229:10 suggest 98:21 109:11 205:11 208:23	280:21 298:6 suggested 31:18 124:22 suggesting 68:3,5 suggests 70:1 238:16 Suite 2:4,8,15 308:9 summarize 87:3 summary 87:19 105:6 255:15 270:20 summer 14:15 15:5 15:19,21 17:21,25 18:4 19:17,20 20:10 21:2,4,18,25 22:15 52:22,22 supersedes 10:14 supplemental 4:9 10:10 36:19 37:14 37:24 38:1,4,5,7,11 38:19 39:6,16,17,19 62:6,14 161:23 162:8 163:16 165:25 167:25 168:24 169:6,21 170:1,14,21 171:10 171:11,13,15,18,19 171:22,24 173:19 175:4 190:24 191:14 192:22 193:12,23 196:16 200:22 244:13 250:11 251:1,7,17 251:18 286:5 support 5:6 19:22 52:22 88:4,6 115:12 115:21 116:18 117:19 120:3,5 122:12,13 123:6 124:9 145:21 146:4 146:5 148:8,8 235:13 270:24 303:15 308:8 supported 15:20 Supporter 117:15 supporting 18:18
--	---	---	--

JEFFREY MILYO, PhD

8/26/2014

42

suppose 80:25 179:12 207:3 288:14 supposed 206:18 207:11 275:8 supposedly 155:13 suppress 87:21 270:18 sure 11:7 12:19 14:11 14:24 17:2 25:4 26:17 27:17,23 28:4 28:7,14 29:21 35:18 35:23 38:5 39:22 42:15 44:6 47:16,17 51:21 52:9 54:5,6 57:10 60:12 86:14 88:2,20 95:5 98:4 99:5,6 103:10 105:15 111:3 112:2 114:21 116:6 117:24 118:8 119:2 119:6 126:22 128:16 134:8 142:21 149:10 150:2 161:11 164:17 173:25 194:4 199:23 203:6 227:11 229:7 237:10 239:11 243:14 268:22 272:4 276:24 278:15 283:25 286:7 surmise 266:18 surmises 269:1 surname 265:17 266:9 surprising 283:9 survey 4:21 56:7 66:15,17,22 67:2,7 67:16,17,19,20 68:8 68:13,16 90:19,20 92:11,24 93:5 97:24 100:13 102:13,19 104:10 106:2,9,13 106:19,24 107:10	108:21 109:18 110:9,15,23 111:9 111:12 112:3,25 113:3 114:9,11,14 114:18,23,24 117:16 120:10,12 120:14,21 121:14 122:5,6 123:6 130:25 132:7 139:21,24,25 140:9 140:13 193:17 226:18,21,23,24 262:18 surveying 107:7 surveyors 107:4 surveys 66:12,13 102:21,25 103:5,24 104:5,7,8,12 107:6 120:9 145:25 suspended 94:5 131:9 133:2 137:21 138:14 139:4,14 140:4,18,25 141:13 142:13,17 144:25 suspense 228:9,12 230:8,18 231:3 246:15,24 247:2,4 suspension 142:5 swore 255:10 sworn 1:18 7:4 307:9 308:3 synonym 125:13 302:3 synonymous 63:14 systematic 270:9 289:6 systematically 102:21 103:5,24 104:5 114:15 120:8 <hr/> T <hr/> T 4:6 T-E-A-M 79:9 Taber 103:20,21 116:8,24	table 127:5,6 228:21 229:20 230:22 231:8 232:25 233:5 233:10 237:7 240:16 246:20 248:15 250:14,16 284:3,5,11,12,17 tables 126:19 228:24 229:8,18 232:22 233:3,11 246:5 253:4 tabulation 132:12 139:1 tabulations 140:1 take 9:1 11:5 12:25 35:24 36:22,23 37:23 48:1 52:10 73:23,25 99:4,14 102:2 103:9 104:12 116:11,12,12 131:13 134:6,24 141:1 144:20 147:11 160:21,23 161:10 163:23 183:5 200:25 201:24 202:3,3 203:12,24 204:3,5 205:12,15 209:14 218:4 224:9 228:12 230:4,14,23 245:17 246:2 256:23,25 257:13,14 291:23 299:7 303:20 305:13 taken 1:18 8:4,20 52:7 75:4,23 77:5 107:1 200:24 201:23 205:9,11,15 205:19,23 206:7 207:25 208:20,24 211:23 307:10,25 takes 23:8 talk 56:13 57:18 60:22 142:8 280:9 talked 49:24 53:1,12	63:5 talking 15:6 22:12 41:9 45:25 54:1 86:8 92:19 96:19 117:21 119:7,15 136:23 155:17 176:17 182:23 209:21 212:14 213:15,16 225:2 272:19 273:24 277:17 279:11 299:10 Tania 2:20 305:19 Tania.Faransso@... 2:22 tank 52:1 74:17 tanks 52:10 target 109:24 taught 19:8 45:19 64:19 282:15,17,18 tautological 243:7 tautology 179:16 teach 75:9,14 281:24 teaching 17:9,10 19:7 19:14,15 21:14,17 22:11 47:4 75:20 team 35:13 41:16,18 42:4 66:19 67:4,5,6 67:13,14,15 79:8 202:21 203:1,13,25 204:13 205:6 222:12,22 teams 67:16 technical 27:22 28:3 28:25 29:3 49:8 57:25 technologies 236:8 239:1 Technology 5:10 tecum 128:2,7 131:22 132:18 135:8,14 137:13 Teleconference 2:13 2:23 3:18 television 47:1
--	--	---	--

JEFFREY MILYO, PhD

8/26/2014

43

tell 8:14 9:1,20 15:11 25:2 26:1 27:9 28:11 30:12,19 31:11,13 33:3,14 35:25 55:1 58:21 62:20 66:21 84:16 103:22 109:11 111:24 113:14,19 125:25 131:24 153:15 182:16 188:11,25 197:12 222:3 231:25 232:3 232:6 239:10 telling 138:18 273:25 temporary 291:24 ten 141:19 289:16,17 291:10 302:24 tense 185:4 tenure 23:20,21,22 23:23,24 24:2,4,6,8 24:10,12,13 282:11 282:13 tenured 24:14,16 term 20:14 27:22 28:3,5 39:10 46:12 49:24 68:25 83:22 83:23 84:2,7 123:21 185:20,22,24 247:11 248:5 277:7 277:8,15,23,24 278:6,9,13,14,19,22 286:15 302:1 terminology 67:15 83:19 208:13 266:1 terms 10:22 28:8 29:1 35:23 40:9,10 47:23 49:5 62:15 67:22 68:15 70:6 77:22 79:5 83:14 84:4 85:22 92:1 96:12 105:20 146:14 147:6 148:17 149:1 154:15,20 155:7 157:24 172:22	178:7,21 191:21 197:23 234:6 263:15 264:9 286:22 289:6 292:22 terribly 78:10 test 8:23 147:7 testified 7:4 26:24 27:1 37:1 170:3 289:13 testify 9:8 32:11 78:6 156:12 234:15 288:18 testimony 13:6 27:10 31:22 58:16,25 95:25 113:15,17,19 114:8,14 133:24 166:12 251:11 288:3 307:12 tests 146:23 296:21 Texans 298:4 Texas 1:1,16,17,21 1:24 2:2,3,8,19 3:9 3:11,15,16 4:13 6:3 6:23,25 32:15 42:22 58:15 73:2 78:19,23 81:14,21 82:8,20,25 83:18 84:14 85:1,13 86:10 92:5 96:8,21 96:23,25 99:25 100:24 112:24 113:3,25 123:20 124:16 172:2,6,25 174:3 176:14 193:7 193:21 194:12 213:23,24 214:5,6 214:21,25 215:3,6,9 215:14,18,21 216:1 216:9 221:15,16,19 222:6,7 223:13 225:20,21,23,24 226:13 227:10,19 228:7 237:13 239:5 239:14 249:6,8 252:14 253:22	254:8 289:2 290:8 290:11,16,17 298:2 298:10 307:2,5 308:9 Texas's 124:1 198:20 199:13 214:10 226:1,10 251:21 265:17 text 25:25 100:19 235:11 248:16 Thank 109:20 168:23 197:7 207:20 231:9 235:6 305:18,22 thanks 11:20 theme 71:25 theoretic 280:5 theorize 156:19 157:1,5 theory 157:6 159:7 270:4 therefor 307:18 thesis 56:17 thick 132:19 thing 21:5 27:3 30:19 31:16 76:8 88:14 89:24 105:5 111:25 122:10 138:6 145:9 181:12 206:13 243:11 244:8 298:18 303:13 things 8:15 13:25 14:3 16:5 18:18 19:3 20:7 37:7 41:2 43:24 44:1 46:15 66:6 69:4 84:4 135:16 145:5 147:2 155:10 157:23 163:24 165:15 176:1 208:16 240:13 279:12 285:21 think 6:19 11:10 17:25 19:20 21:17 21:19 22:15 24:19 25:7 27:3 28:25	29:1 33:19 35:10 36:21 42:15 43:5 44:20 49:5 51:1 52:1,10,20 61:19 63:5 68:14 69:19 71:20 73:11,24 74:11,12,16 76:6 78:9 84:21 89:11,20 90:4 93:6,8 101:11 102:15 103:8 105:5 106:25 108:9 109:4 111:7,15 112:14,16 116:7 120:20 123:9 125:9 134:22 139:23 145:15 147:22 149:24 152:3 153:12 158:8 159:16,25 160:14 162:14 165:11 170:9 171:9 172:10 175:15 178:20,23 182:23 186:20 201:1 202:1 204:23 204:25 205:24 220:7 224:6 234:20 243:7 246:19 252:19 254:24 255:14,24 260:21 262:21 263:10 265:8 266:1 269:7,9 271:3 272:2,17 276:20 277:18 278:18 281:25 287:9 303:13,15,17 303:23 304:24 thinking 34:3 49:16 71:17,18 89:21 111:25 159:19 208:16 238:6 258:2 thinks 134:23 third 33:22 118:5 thorough 17:6 92:19 166:22 thoroughly 251:7 thoroughness 203:8
---	--	--	--

JEFFREY MILYO, PhD

8/26/2014

44

thought 13:20 19:2 57:1 71:16 72:24 76:12 84:20 100:19 108:1,4,25 111:14 121:12 156:11 160:3 283:6	232:10 238:4 250:7 250:12 251:6,16 255:22 256:24 289:25 292:22 302:14,21 304:19 305:5,6	totally 156:21 157:3 touch 69:16 114:25 tow 146:20 track 24:2,4 60:4 232:9 train 151:17,19 training 28:19 46:25 281:20,23 transcript 8:7 303:16 307:7,16,21 translate 35:20 transmit 41:14 transparent 295:3 transportation 65:10 65:12 149:15,17 150:4,6 151:10,15 152:2,9,21 Traugott 284:20 285:3,7,12,14 travel 65:14,16,18,22 66:1,5,9 148:17 149:1 150:21,24 151:1 152:10,20,21 153:25 156:15 158:14,16,22 159:5 286:2 292:22 293:7 traveling 149:16 150:5 151:9,14,14 152:1,1,9 292:10,11 treat 139:14 141:12 144:7 treating 145:22 treatment 5:12 301:6 301:10 treatments 93:9 Trey 244:15 trial 61:25 trick 134:19 tried 34:24 37:23 128:14,17 trip 151:5,7,12,24 trips 149:19 150:8 151:2,3 trouble 28:5,12 54:15 76:23	true 249:10 266:6 306:22 307:7,12 Truman 51:10 179:24 truncated 145:16 trust 143:7 truth 239:10 try 7:11 30:21 53:7 76:25 77:2 100:19 105:15 143:10 146:20 154:12 217:2 257:17,20 272:3 274:2 275:12 280:24 trying 9:22 12:2 13:22 16:19 17:6,18 17:23 27:6 38:25 39:10 47:25 56:19 61:15 72:5 81:3 111:17 112:8 115:15 132:21 134:19,20 141:7 143:24 162:1 178:10 184:9 185:4 189:7 239:8 260:6 273:10 276:3 Tufts 23:7,14,17,20 23:21,22,24 Tulane 51:7,18 turn 78:11,13 125:18 143:4 144:3 148:12 176:19 180:7 192:14 214:8 217:7 235:6 237:4 244:22 249:21 251:19 254:19 270:14 284:2 293:13 294:22 296:5 297:4 298:20 300:12 turned 60:21 turning 32:10 58:10 105:24 273:24 turnout 4:23 5:8,11 44:9 49:10 51:1,18 53:5 56:3,21 57:13
thoughts 62:15 three 6:19 7:19 11:24 24:20,20 89:3 98:20 114:4 115:24 116:1 167:22 thrown 29:20 tied 16:6 Tim 105:1 time 8:24 9:6,15,16 13:22,25 18:20 19:24 21:3,17,21 23:10 24:24 30:14 30:25 31:14 33:24 34:3 35:15 39:21 40:15,20 43:14 45:1 52:14,17 55:11,16 56:13 57:7,17,18 59:2,16,17 60:3,4,6 60:8,19 62:18 75:15 82:4,16 85:4,5,6,8 87:7 90:5,6,10 99:4 107:15,25 108:15 109:19 110:3,4,11 110:18,20 112:14 112:17 119:2,20,21 132:20,24 134:6 148:17,18 149:1,2 149:18,20 150:7,14 151:1 155:1 156:15 158:13,14,16,19,22 159:5 162:25 166:6 166:13 167:24 168:3 169:20,25 170:1 171:9 172:23 173:24 174:1 175:24 178:9 188:7 190:25 191:20 193:23,24 219:15 220:4 221:23 224:5	times 7:18,19 24:19 24:20 108:9 109:4 159:22 163:5 215:18 timing 135:16 tiny 233:12 tips 151:3 title 12:6 41:11 52:5 54:22 55:1 56:22,25 57:5,9 64:11 112:25 188:1,8,23 190:2 titled 10:10 38:5 Toby 3:20 6:12 today 9:9 62:2,10 63:5 78:10 85:3 106:16 108:23 111:24 182:16 225:19 229:9 234:16 today's 113:5 told 148:22 tomorrow 269:9 tomorrow's 305:14 Tonia 6:22 tools 64:15 70:6,25 71:5 73:5 top 14:5 31:14 34:4 47:14,23 59:23,24 124:21 222:3 228:10 232:3,6 244:2,8 247:9 253:1 253:3,5 285:13 296:7 topic 48:5 70:12 71:11 72:16 81:18 topics 50:17 51:15 81:18 total 60:16,17 133:5 186:9,18 211:24,25	total 156:21 157:3 touch 69:16 114:25 tow 146:20 track 24:2,4 60:4 232:9 train 151:17,19 training 28:19 46:25 281:20,23 transcript 8:7 303:16 307:7,16,21 translate 35:20 transmit 41:14 transparent 295:3 transportation 65:10 65:12 149:15,17 150:4,6 151:10,15 152:2,9,21 Traugott 284:20 285:3,7,12,14 travel 65:14,16,18,22 66:1,5,9 148:17 149:1 150:21,24 151:1 152:10,20,21 153:25 156:15 158:14,16,22 159:5 286:2 292:22 293:7 traveling 149:16 150:5 151:9,14,14 152:1,1,9 292:10,11 treat 139:14 141:12 144:7 treating 145:22 treatment 5:12 301:6 301:10 treatments 93:9 Trey 244:15 trial 61:25 trick 134:19 tried 34:24 37:23 128:14,17 trip 151:5,7,12,24 trips 149:19 150:8 151:2,3 trouble 28:5,12 54:15 76:23	true 249:10 266:6 306:22 307:7,12 Truman 51:10 179:24 truncated 145:16 trust 143:7 truth 239:10 try 7:11 30:21 53:7 76:25 77:2 100:19 105:15 143:10 146:20 154:12 217:2 257:17,20 272:3 274:2 275:12 280:24 trying 9:22 12:2 13:22 16:19 17:6,18 17:23 27:6 38:25 39:10 47:25 56:19 61:15 72:5 81:3 111:17 112:8 115:15 132:21 134:19,20 141:7 143:24 162:1 178:10 184:9 185:4 189:7 239:8 260:6 273:10 276:3 Tufts 23:7,14,17,20 23:21,22,24 Tulane 51:7,18 turn 78:11,13 125:18 143:4 144:3 148:12 176:19 180:7 192:14 214:8 217:7 235:6 237:4 244:22 249:21 251:19 254:19 270:14 284:2 293:13 294:22 296:5 297:4 298:20 300:12 turned 60:21 turning 32:10 58:10 105:24 273:24 turnout 4:23 5:8,11 44:9 49:10 51:1,18 53:5 56:3,21 57:13

JEFFREY MILYO, PhD

8/26/2014

45

57:20 58:2 87:21 124:18 125:4 177:16,21 184:4 190:13 227:10,10 227:16,18,19,24 228:4 241:18,25 242:10,11,18,22 243:25 244:6,10,19 257:22 258:4,14,15 258:18 270:18,24 270:25 271:3,11,22 272:13,19 273:1,6 273:19 274:15 275:19,20 276:8,16 276:24 277:3,23 279:20 280:6,14,19 280:23 281:5,13 282:24 283:19 284:6,7,13,25 285:4 285:15,22 286:1 293:16,24 297:23 301:7 twice 198:22 199:19 two 18:18 19:11 50:9 54:17 63:17 89:3 100:2 115:24 137:4 153:10 197:1 200:10 209:4 270:5 281:19 298:22 299:2,12 type 141:6 145:15 types 20:15 84:11 169:13 typical 299:22 typically 125:12 258:8,22 259:13 264:2 typo 148:24 218:16	ultimately 146:18,20 un-updated 174:18 unaffected 293:17 294:3 unaware 176:21 177:12 178:4,6 uncertainty 207:18 unclear 125:19 126:3 127:13 143:23 240:24 uncommon 145:24 147:24 148:4,6 undercut 87:11,16 89:6 undergraduate 75:20 282:7,9 underlined 99:8 underlying 130:18 156:20 157:2 173:17 174:21 175:17 176:8,9,11 understand 7:25 8:3 8:8,11,14 14:10 17:7 43:11 50:18 83:22 98:10 101:15 101:19 110:16 114:3 134:10,22 141:7 152:7,11 163:3 177:25 183:1 185:16 186:17 195:24 239:8,12 276:4 304:24 understanding 33:9 43:13,18 44:24 59:13 60:12 61:4 69:11,13 83:14,23 84:2,6 88:6,8 89:15 135:21 136:7 139:9 139:12 157:25 173:4 184:9 185:20 189:10 202:1,19,24 238:19 243:17 249:19 250:20,23 253:8 287:12 298:11	understands 287:14 Understood 15:3 21:23 undertake 78:25 undertaken 62:11 106:9 unequal 275:23 unexpired 94:5 247:22 uninformed 86:13 union 64:4 United 1:1 3:2 6:9,11 6:12 161:5 242:10 307:22 universal 284:13 universe 107:9,10 148:2 210:20,22 211:4,6,16,17,21 213:6,9 228:19 229:3 230:11,20 238:11,12 257:20 universes 229:12 universities 67:17 University 14:12,17 14:19 15:18 16:2,9 16:16,22 17:13,14 19:6 22:20,22 23:7 23:19,25 24:8,10,13 24:14,16 51:7 167:17 179:24 180:5 unmatched 194:25 unpredictable 153:5 153:9,11,13 unreliable 28:24 29:17 unsure 141:24 update 13:13 updated 169:4 170:17 173:14 174:16 175:3,5 194:1,7 196:15,18 196:19 200:21 206:18 261:8 279:23	updates 13:12,13,17 13:18 upward 91:11 urban 149:14 150:3 urge 303:19 use 11:21 12:13,23 28:7,10 29:14 39:10 40:5 69:3 70:6,24 78:13 82:12 84:16 123:13 124:5 147:8 177:17 185:22 204:25 209:2 210:11 217:21 218:5 221:6 248:5 264:21,25 265:5,17 265:22 271:3 278:16 useful 46:22 157:25 uses 197:23 218:10 usually 192:11
<hr/>			
U			
<hr/>			
U 22:23 23:4			
U,S 4:17			
U.S 3:3,20 308:8			
Uh-huh 26:6 177:3 257:25			
<hr/>			
V			
<hr/>			
v 306:2			
vague 274:18			
vagueness 199:16			
valid 140:4 158:6 181:18 184:14,20 255:12,18			
validate 229:12			
validated 262:19			
validation 92:14			
value 86:14 155:1 159:8 203:18			
value-added 76:14			
Vanishing 124:13			
VAP 125:7,7 257:4			
Variability 244:6			
variable 47:13,18,19 48:6,16 139:13 153:9 268:2			
variables 47:24 130:1 137:7 263:6 276:19 276:21 277:2			
variety 255:24			
various 50:22 245:2			

JEFFREY MILYO, PhD

8/26/2014

46

vary 149:4 153:6 155:21 156:5 VEASEY 1:3 venire 27:5,8 VEP 125:2,8 veracity 206:16 verbatim 78:24 87:14 103:2 114:20 186:14 217:19 242:6,15 297:16,24 300:19 verify 186:7 225:17 248:16 version 35:17,21,25 36:7 169:4,5 170:18 170:18 280:12 296:10,13,14 297:1 297:2 298:12 versions 203:5 297:3 versus 18:16 39:12 77:24 111:9 168:8 177:22 223:23 224:15 261:10 281:14 287:3 view 81:3 158:22,22 159:5,6 218:8 vis-à-vis 272:22,25 273:1,1 275:24 Vishal 2:10 6:24 Vishal.Agraharkar... 2:13 visiting 22:21 vitae 233:17 Vital 215:3,11 vocabulary 247:5 voice 185:1 volumes 47:22 vote 5:8 20:22,23 50:22 84:10 94:10 98:14 99:22 100:24 101:13 154:13 158:4 246:25 247:4 247:21,24 248:23 249:4,17,19 258:3 262:19 272:12	273:4 274:5,8 276:14 286:17 287:15,18 288:1,12 288:20,23 289:1,9 289:16,18,20,24 290:3,11,22 300:18 300:25 voted 206:19 207:11 209:5 273:5 274:10 voter 4:13,16,23 5:3 5:10 33:13 43:20,22 43:25 44:2,8,12 44:13 46:12 49:3,10 49:11,23 50:10,19 50:20,23,25 51:1,12 51:16,18,22 52:8 53:4,5,23 54:23 56:9,10,21,21,22 57:12,12,19 58:2,6 58:8 71:24 72:1,11 73:13 75:4 77:5 78:9,22 79:8 91:10 100:22 101:12,22 120:17 124:13 140:24 141:1,3 158:9 159:13 160:13,16 176:22 176:23 177:13,22 178:5,7,10 179:2 180:20,21 181:9,10 183:14,15,25 184:1 184:4,5,7,19 186:2 187:2 189:16 190:11,13,20 191:4 191:11,18 198:20 199:13 206:22 213:24 214:6,10,22 215:1,7,15,23 216:1 216:10 220:17 221:20 222:1,7,16 226:1,6,10,13 227:16,23 228:7 237:15 239:16,21 242:10,22 254:17 254:23 255:6	256:10,14 265:18 266:9 270:18,25 271:11,17 272:8 273:12 274:5 276:7 276:16,24 277:3,23 278:19 280:6 282:24 285:21 286:22 293:16,18 293:24,25 294:13 294:24 295:19 296:2 297:9,14,22 298:24 299:17 300:22 301:1,6,7,10 301:18 Voter-ID 5:14 voters 2:19 6:23 87:22 91:13 99:25 181:17 182:9,10 184:13 185:9,11,25 187:3 192:17 193:6 193:11,16,21 194:12,19,25 210:21,22,24,25,25 211:1,5,6,15,17,18 211:21 213:7,9 215:10 217:11,17 218:7,12,20 219:13 220:10,24 221:5,7 221:10 223:13 228:8,12,12,20 229:3,12 230:7,9,11 230:18,19 231:3 238:13 241:19 242:1,12,19 244:6 244:18 245:3,8 246:7 249:8 250:18 252:14 255:8 271:2 271:18,18,21 272:9 272:9,12,23 273:2 273:13,14,18 274:4 274:6,9 275:22 276:14 283:18 286:10,19 292:9 294:14 297:20 votes 72:7,15 271:8	271:10 286:12 voting 5:10 44:17,17 46:13 47:8,18 48:5 48:6,15,15,19,25 50:22,22 57:13 72:2 72:9 81:15,21 82:9 82:20,25 83:17,24 84:7,14,25 85:12,23 85:25 86:9 94:15 124:7 125:7,12,13 158:1 207:4,10 209:10 256:10,14 256:19 270:24 271:15 274:9 276:19 277:1,7 278:1,4,20,21,24 279:3,8,14,24 280:4 280:9,12,13 285:16 286:15 294:24 298:24 vs 1:5 <hr/> W <hr/> W 3:14 Wagner 5:14 300:9 300:15 Wait 142:7 waited 302:23 walk 132:25 224:21 walking 149:18 150:6 151:10 152:2 want 11:5,9 12:19,19 13:15,19 15:10 28:11 44:4 48:8,9 59:17 62:8 88:21,22 90:9 100:8 108:12 116:10,13 123:1 132:14 135:15,18 143:6,12 144:9 147:11 157:8 160:21 166:22,25 173:25 188:3 204:19 217:2 224:9 230:8,14 247:6,10 248:10 254:4
--	---	--	--

JEFFREY MILYO, PhD

8/26/2014

47

256:25 269:4,9 275:7 278:16 286:17 299:1 302:2 302:5 305:9 wanted 88:25 98:4 114:9 132:10 147:8 wants 209:14 269:7 warrants 77:7,10 Wash 22:23 23:4 Washington 2:16,21 3:5 22:20,22 29:23 52:2 wasn't 23:13 42:18 48:7 57:23 61:3,17 116:24 117:20,20 118:2,20 123:11 135:9 136:6 159:19 236:3 301:14 waste 90:6 305:6 wasted 302:7,14,16 305:5 watching 42:18 water 34:25 161:11 wavering 220:6 way 9:11 34:20 40:2 42:9 53:16 55:22 58:13 63:4 65:6,8 69:23 70:24 71:4 74:24 76:3,24 84:11 93:6 101:19 104:21 113:16 130:12 139:10,12,17 145:20,22 149:6 157:9 158:12,22 159:5 178:1 188:2 207:7 220:14 256:16 264:11,12 272:2 273:1,22 278:25 279:17 280:8 281:15 303:7 ways 146:1 178:22 301:5 we'll 6:2 9:1,14,16,17 10:23 11:17,21 12:13,17,23 27:19	39:20 41:7 78:13 98:3 167:1,1,12 181:3 298:17 we're 12:19 15:6 18:20 21:7,13 23:11 25:4 30:13,14 32:10 35:18,18,23,23 52:20 86:3,8 88:11 90:6 96:19 104:11 112:21 136:23 142:21 183:8 191:20 238:16 250:2 254:2 304:10 304:11 305:17,23 we've 16:13 71:25 73:24 106:14 112:21 161:8 189:17 224:5 241:11 244:2 253:4 255:16 302:4,7 304:2 305:15 weakest 297:15 weakness 206:11 252:3 weaknesses 206:11 weather 285:21 Webster 38:9 148:14 148:16,25 167:15 171:16,23,24 233:21 278:13 291:14,17 Webster's 171:19 234:17 291:22 weeks 37:12 251:4 weigh 267:21 weight 146:13 204:17 weighted 110:15 weighting 110:16 146:18 weights 145:6 146:23 147:1,5,6,19,21,23 well-known 279:9 280:8 went 23:25 59:13 120:15	weren't 21:11 117:20 165:15 192:2 West 1:23 2:8 Whichever 7:9 Whispering 159:2 white 129:22 132:13 294:25 295:8 whites 79:23 80:5,12 80:17 84:8 156:16 261:10 284:14 Whitley 11:2 34:14 36:8 42:15 99:7 Whitley's 11:19 widely 279:25 wife 7:12 21:8 willing 141:1 willingness 33:6 Wilmer 2:20 Wilson 5:15 300:10 300:16 win 20:20,21 119:9 wind 146:18 147:16 winds 147:16 winning 20:23 wipe 280:23 wish 286:12 withdraw 32:13 withdrawing 100:5 witness 1:15 26:25 28:18 33:2 46:3 74:21 83:4 99:15 119:1 130:7 134:9 142:10 160:20,24 172:15 188:6 224:11 257:13 275:5 302:14,19 305:1 306:3 307:8 307:13 Wolfinger 5:9 283:12 283:17 woman 21:8 won 283:15 word 28:11,12,13 29:4,5,9,11,14 39:24,25 42:6 82:12	84:17 133:9 160:10 174:1 199:22 200:3 203:17 204:17,19 204:22 205:1 216:22 217:21 218:5,11 221:6 230:23 232:25 233:4,10 234:3,13 234:16 241:21 271:3 275:13 278:16 wording 101:21 177:10 words 40:5 49:19 74:7 77:13 81:5 143:14 170:9 186:12 233:11 234:10 260:7 267:5 wordy 105:13 work 17:8 18:20 19:5 21:9 40:15 46:1,17 46:20,24,25 47:4 55:4,9,11 58:18 60:10 61:9,12 64:2 70:12 71:20,24 72:22,24 73:12 92:1 104:16,19,24 133:19 177:6 178:16 191:9 203:9 242:25 243:3,17 244:14 256:16 261:16 262:2,3,4,9 262:23 263:1,2 work-in-progress 51:8 57:6 worked 15:5 17:10 18:1 67:9 253:17 worker 48:23 workers 46:25 working 21:14 122:18 129:3 179:25 180:10,18 180:24 181:2,5,8,15 183:9,21 184:10 187:7,12,16,18
--	---	---	---

JEFFREY MILYO, PhD

8/26/2014

48

188:13,19 189:2 191:20 286:6,7 294:11 295:16 296:12 297:5 works 64:25 worst 284:6 wouldn't 76:25 101:17 102:8 222:17 226:3 235:23 281:3 wrap 302:5 write 26:10 133:3,13 235:7 write-up 55:23 writing 57:22 59:3 185:2 241:20 274:22 275:7 written 55:17,18 57:23 88:16 133:10 133:14 176:25 182:11 185:5 186:13,21 193:24 217:20 227:2,14 258:11,25 259:4 269:21 275:5,9,9 283:14 wrote 125:10 131:1 179:23 181:14 182:5 186:17 300:16 Wyoming 167:17	22:12 23:5,8 66:18 67:12 92:3,10,22 94:13 95:2,9,17 96:2 97:19 113:22 124:2,19,20 215:18 year's 67:7 years 15:6 17:22 19:3 45:19,20 50:6 66:18 95:16 158:6 182:24 191:21 255:21 256:22 282:18,19 289:16,17 yep 160:20 yesterday 36:16 37:2 37:4 York 2:12,12,15 Young 2:19 6:23	137:1 162:21 281:6 281:10 283:19 10.7 284:9 100 13:15 61:7,8 164:16 10013 2:12 104 239:19 105 261:4 106 261:4 266:12 269:17 109 294:15,16,17 11 4:22 179:18,19 184:12 113 148:23 294:16 114 148:23 115 148:22,23 119 150:19 12 2:12 5:1 189:23,24 190:1 120 152:25 156:14 121 156:19,24 157:19 122 158:5 124 159:11 125 300:13 12548 3:10 13 5:5 25:8 127:5 230:1,2 237:5 137 277:12 139 280:10,15 14 5:6 78:23 79:22 80:4,12,20 86:18 87:18,19 88:3,10,10 89:8,16,17 139:16 192:14,19,19,25 193:2,7,21 194:12 206:20,23 207:1 210:16 212:15 227:19 228:18 230:19 245:4,8 246:6 249:9,17 250:19 252:15 253:21 254:7,10,12 266:4 270:17,22 286:9,11,15,17,20 286:21 287:16	292:10,11 14's 249:12 140 282:20 1401 2:15 143 105:12 145 105:12 146 105:12 15 5:8 59:23,24 284:2 284:2,4 302:24 303:11,20 15,000 59:19 151 293:14,20,21 295:14,20 154 206:20 15th 161:16 174:5 176:15 182:13,18 194:1 196:24 200:8 251:3 16 5:10 294:20,21 296:5 161 2:12 4:3 17 5:12 87:3 270:22 298:17,19 179 4:22 17th 194:7 18 5:14 87:1,2 95:7,7 95:16,20 294:22 300:7,9 18.D 270:14 1875 2:21 1887-88 17:10 189 5:1 19 296:5,7 1964 9:13 1986 13:21 14:7,16 14:19 15:4,12 16:9 16:22 17:15 1987 15:16,17,19 16:4 17:8 1988 17:22 18:25 1989 19:14 20:10 21:2,4,14 1991 22:18 1992-93 23:8 1994 13:22 14:19
Z	zero 91:19 223:5 zip 128:13 136:6,9,13 172:9 237:9	0	
08540 2:5	1		
X	1 4:8 9:17,18,20 10:14,14 12:7,23 13:1 35:19,24,24 58:14 61:23 62:12 78:18 93:23,25 94:4 98:16 99:2,18 100:3 100:6 105:10 125:23 137:23 141:16 142:23,25 143:6 144:11 148:22 193:6,20 194:11 252:14 299:19 300:13,14 300:14,20 1.2 91:10 193:15 10 4:9,10,20 129:4,6 130:13 134:4 135:4 136:11,12,16,18		
X 4:1,6 Xerox 275:1			
Y			
Yair 166:14 234:22 yeah 16:14,19 36:21 49:20 54:3 77:13 90:17 102:11 123:2 126:22 146:8 287:9 304:16 year 14:5,13 15:6,13 16:6 17:10,24 21:16			

JEFFREY MILYO, PhD

8/26/2014

49

16:9,22 17:15 23:1 1996 243:25 1s 228:25 1st 11:12,16 161:22 162:11 163:8,20 164:20 165:21 166:16 167:10,16 200:7	188:13,19 189:2 2008 26:7 72:20 123:15 296:12 2010 2:8 214:13,16 214:19 2011 26:10 29:23 2012 123:15,20 214:10,13 2013 32:21 43:6 54:11,15,20 123:13 192:1 2014 1:11,20 123:16 123:19 172:4,8 307:11 308:4 202.305.4355 3:5 202.307.3961 3:6 202.663.6000 2:22 204.662.8389 2:16 20530 3:5 21 176:19,20 297:5,8 299:7,9 210 93:16 96:1 113:21 22 177:2 242:4 23 47:17 48:3,13 299:7,10 230 5:5 24 125:20,21 126:6 126:17 127:14 222:12,22 223:4,5 223:13,19,21 224:22 225:7 25 222:10,11,14 223:10 237:4,7 254 5:6 26 1:11,19 47:9 48:3 48:14 49:5 307:11 27 214:8 28 15:6 298:20,21 284 5:8 28th 308:3 29 298:21 294 5:10 298 5:12 2s 254:24	<hr/> 3 <hr/> 3 4:10 10:23,24 11:12 12:3 24:25 25:10,23 26:14,18,22 35:19 35:24,25 36:3,6,9 47:24 48:3,13 93:23 93:25 94:8 95:3,10 95:11,18 96:3,5,9 96:10,24 97:2,5,15 97:17 98:22,24 99:1 103:15,16 113:10 114:5 143:1,7,12 145:12 180:7,9 181:4,7,20 182:4,17 182:25 184:16,17 184:22,25 186:5 214:2 217:14 246:1 252:23 256:17 257:7 299:3 3.1 173:2,8 174:11,14 174:23 175:7 176:5 195:1,19 196:9 30 307:16 300 1:23 5:14 306 4:4 307 4:4 327,132 246:20 34 125:19 126:4 127:16 344 308:8 36 4:11,13,14,16,18 4:19,20 244:22,24 245:14 380 308:9 38267 308:7	231:8 257:18 4-AUSTIN-168243 308:25 40 201:10 251:20 252:11 400 2:15 41 103:1,4,18 115:22 43 249:21 44 143:13 217:8,12 218:13 46 131:21 49 168:9 4920 3:15 4th 257:9
<hr/> 2 <hr/> 2 4:9 10:2,3,8,9,9,13 10:15 11:4,14,22 12:1,1,4,7,13,22 25:6,7 35:19,24,24 36:3,5,9,10,14 58:11,12,13 61:23 62:12 78:13,15,16 90:16 93:23,25 94:6 94:8 98:16 99:3,18 100:3,7 105:10 125:23,23 126:6 138:4,12 142:24 143:1,2,6 161:17 182:13 188:6 192:15 230:24 254:19 296:13,14 299:3 2:13-cv-193(NGR) 1:5 20 42:19 126:9,17 2000 23:14 124:22 243:24 2000-2004 24:2 20005 2:16 20006 2:21 2002 124:24 301:21 2004 244:5 2005 283:11 2006 52:21 254:15 256:20 257:5,9 301:21 2007 26:2 180:10,25 181:2,8,13,14 182:4 183:9 184:10,11 185:5 186:5 187:12		<hr/> 4 <hr/> 4 4:11 93:23 94:1 103:13,15 116:8,9 128:20 129:7 131:15 132:18 134:2 135:7,14 136:23 137:1,13,24 138:1,2 143:2 185:23 217:14	<hr/> 5 <hr/> 5 4:14 47:24 48:3,13 58:15 117:7,9 181:17 184:13,19 280:18 284:3 300:12 5.1 237:7 50 56:3,7 231:23 50,000 59:22 500 2:4,8 512.292.3866 308:10 512.292.4249 308:10 512.374.2725 3:16 512.394.3027 2:9 512.447.3940 3:17 512.463.2197 3:11 54 90:14,17,22 55 92:2 94:2,18,19 96:7 97:12 98:7,17 98:24 113:11,21 56 100:21 101:1 57 102:18 114:21 58 120:21,25
			<hr/> 6 <hr/> 6 4:16 118:4,7 291:22 6-A 254:19 255:2 6,000 256:8,12 6:30 1:20 305:24 609.955.3222 2:5

JEFFREY MILYO, PhD

8/26/2014

50

60s 166:5	88 19:4,8		
61 123:12	89 19:17 21:22		
63 128:22 129:21	89-90 21:16		
64 128:22 129:23			
137:20	9		
65 94:7,17 125:18	9 4:8,19 127:22,24		
128:22 132:1	135:24 138:2,3		
249:16	90 21:18,22,25 22:2		
66 93:18 97:11 98:6	22:10,12,13		
113:25 128:22	902 2:4		
131:10 132:1	91 22:13,15 23:5		
137:25 138:6	92 23:5		
67 138:10,24	94 22:2		
68 128:22 132:1	950 3:4		
143:4,9,17	98 235:6,7 284:22		
69 128:22 132:1	99 230:22		
	9th 9:13		
7			
7 4:2,13 112:18,20			
113:14,14 245:16			
7.1 247:14			
7.1.A 246:2,17			
247:14			
7.1.B 230:22 231:8			
240:16 246:3,18,20			
70 128:22 132:1			
701 308:9			
72.9 227:3			
73 93:24 142:11			
75 96:19 97:16			
145:11			
7524 3:4			
78701 2:8 308:9			
78711 3:11			
78751 3:16			
7A 140:2 142:4			
7B 140:13,15,19			
8			
8 4:18 49:8 126:23			
127:1 180:9 184:17			
8:59 1:20			
82 90:23			
87 93:17 96:6 97:4			
113:24			

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

IN THE MATTER OF:	:
	:
MARC VEASEY, et al.,	:
	:
Plaintiffs,	: Civil Action No.
	: 2:13-cv-00193
v.	:
	:
RICK PERRY, et al.,	:
	:
Defendants.	:

Thursday,
July 17, 2014

Washington, D.C.

DEPOSITION OF:

MICHAEL L. MIMS

called for examination by Counsel for the State of Texas, pursuant to Notice of Deposition, in the offices of the Department of Justice Civil Rights Division, located at 1800 G Street, NW, Washington, D.C., when were present on behalf of the respective parties:

<p style="text-align: right;">14</p> <p>1 A The place of birth was Pensacola, 2 Florida. Date of birth is November 17, 1962. 3 Q And, Mr. Mims, could you briefly 4 describe your educational background? 5 A I have a Bachelor of Science from the 6 University of Florida in Computer Information 7 Science. 8 Q Are those undergraduate degrees? 9 A Yes. 10 Q Do you hold any kind of post-graduate 11 degree? 12 A No. 13 Q Do you hold any kind of professional 14 qualifications or certifications? 15 A I have a Project Management, what do 16 I call it? I'm a Certified Project Manager as 17 awarded by VA. 18 Q And by VA you mean the - 19 A Veterans - 20 Q - Veterans Administration? 21 A Yes. 22 Q And when were you awarded that 23 certification? 24 A I was first awarded it approximately 25 eight years ago.</p>	<p style="text-align: right;">16</p> <p>1 Informatics and Analytics in April of 2012, which 2 is my current position as Program Manager for the 3 Health Care Identity Management Team. 4 Q And you currently hold that position. 5 Correct? 6 A Yes. 7 Q And, I'm sorry, could you state the 8 title of that position one more time? 9 A Program Manager, Health Care Identity 10 Management. 11 Q And in your role as Program Manager, 12 the role you currently hold, what are your 13 official duties and responsibilities? 14 A My duties are to insure the 15 maintenance and validation of the data that's 16 maintained within the Master Veteran Index, or 17 MVI. 18 Q Is that your primary responsibility? 19 A Yes. 20 Q Who do you report to? 21 A I report to Marcia Insley. 22 Q And do you manage anyone below you? 23 A Yes, I have a team of approximately 31 24 federal employees that work with me in the 25 maintenance and validation of our data within the</p>
<p style="text-align: right;">15</p> <p>1 Q Mr. Mims, are you currently employed? 2 A Yes. 3 Q And who is your employer? 4 A Department of Veterans Affairs. 5 Q And how long have you been an employee 6 with the Department of Veterans Affairs? 7 A Since April of '87, which is 8 approximately 27 years. 9 Q And could you tell me what positions 10 you've held at the Department of Veterans Affairs 11 starting with the first day of your employment up 12 to today? 13 A The first day of my employment I was 14 a Computer Specialist working at a medical center 15 supporting the Information Resources Management 16 Office. Following that, I moved to the 17 Information Service Center as it was called then 18 under the Office of Information Technology, where 19 I worked as a programmer on the pharmacy 20 applications for a very long time, until 21 approximately 2000, or approximately 1998 when I 22 became a Project Manager. I was a Project Manager 23 for approximately three years until I became a 24 Program Manager on or around 2003. I remained in 25 that role until I joined the Office of</p>	<p style="text-align: right;">17</p> <p>1 MVI. 2 Q And are all those employees specially 3 trained to perform those functions? 4 A Yes. 5 Q Do you train them yourself? 6 A No. 7 Q How do they receive their training? 8 A We have designated individuals who 9 have been trained and who provide that training 10 to the staff as they come on board. 11 Q Do you receive periodic training in 12 this field? 13 A Do I, myself? 14 Q Yes. 15 A What do you mean? 16 Q Well, you mentioned that your 17 employees receive training regarding data and 18 updating it, and everything you just described. 19 I'm asking you if you receive similar training on 20 a periodic or regular basis? 21 A Not formal training, but I do see the 22 documents and the training materials that they 23 are provided, but I do not participate in that 24 training. 25 Q Mr. Mims, does your work require you</p>

<p style="text-align: right;">18</p> <p>1 to regularly work with information databases?</p> <p>2 A Not directly. As I said, I supervise</p> <p>3 the employees that actually do the maintenance</p> <p>4 and validation of these databases.</p> <p>5 Q Okay. So you, yourself, don't actually</p> <p>6 work with the data and the various databases.</p> <p>7 Your employees do that under your supervision. Is</p> <p>8 that correct?</p> <p>9 A That is correct.</p> <p>10 Q And in that work that you all do with</p> <p>11 databases, do you all regularly conduct matches</p> <p>12 in which you compare information in one database</p> <p>13 to information in another?</p> <p>14 A Yes.</p> <p>15 Q And about how long have you all been</p> <p>16 doing such work?</p> <p>17 A This team has been doing such work</p> <p>18 since the MVI was created back - I do not</p> <p>19 remember the date, but it was back some time in</p> <p>20 the 1990s is when the Master Veteran Index was</p> <p>21 originally established.</p> <p>22 MR. TATUM: Okay. Sam, if you would,</p> <p>23 please locate the Second Amended Notice and mark</p> <p>24 it as Exhibit 1, and offer it to the witness,</p> <p>25 please.</p>	<p style="text-align: right;">20</p> <p>1 Q Okay. Have you turned to page 5?</p> <p>2 A Yes.</p> <p>3 Q Okay. On page 5 you will see a heading</p> <p>4 that says, "Matters," and it's followed by a</p> <p>5 series of numbered paragraphs from 1 to 6. Do you</p> <p>6 see those paragraphs?</p> <p>7 A Yes.</p> <p>8 Q Paragraph 1 states, "Any and all</p> <p>9 databases in the possession, custody, or control</p> <p>10 of the Department of Veterans Affairs used to</p> <p>11 conduct a match with any database produced by the</p> <p>12 defendants in this lawsuit." Is that an accurate</p> <p>13 reading of that topic?</p> <p>14 A That is exactly what it says.</p> <p>15 Q Mr. Mims, are you aware that you've</p> <p>16 been designated by the Department of Veterans</p> <p>17 Affairs to testify on its behalf and give</p> <p>18 truthful and binding answers on its behalf</p> <p>19 regarding that topic?</p> <p>20 A Yes.</p> <p>21 Q And are you prepared to testify on</p> <p>22 Topic 1?</p> <p>23 A I am.</p> <p>24 Q Mr. Mims, Topic 2 says, "With regard</p> <p>25 to a database described in Matter 1 above, any</p>
<p style="text-align: right;">19</p> <p>1 (Whereupon, the above-referred to</p> <p>2 document was marked as Exhibit 1 for</p> <p>3 identification.)</p> <p>4 THE WITNESS: Thank you.</p> <p>5 COURT REPORTER: They have the exhibit.</p> <p>6 BY MR. TATUM:</p> <p>7 Q Okay. Mr. Mims, if you would please</p> <p>8 looking at the first page of the document that's</p> <p>9 just been handed to you, would you read the text</p> <p>10 in the middle of the page that is in bold capital</p> <p>11 letters and underlined, please?</p> <p>12 A "Defendants' Second Amended Notice of</p> <p>13 Intention to Take Oral Deposition of the United</p> <p>14 States Department of Veterans Affairs."</p> <p>15 Q Mr. Mims, have you seen this document</p> <p>16 before?</p> <p>17 A I do not believe so.</p> <p>18 Q If you would please, Mr. Mims, turn to</p> <p>19 page 5 of that document.</p> <p>20 A Wait, I have seen this before. I'm</p> <p>21 sorry. I saw it just prior to this meeting. I was</p> <p>22 given it just prior to this meeting.</p> <p>23 Q Okay. And was that the first time that</p> <p>24 you had seen this document?</p> <p>25 A Yes.</p>	<p style="text-align: right;">21</p> <p>1 fields containing the same types of identifying</p> <p>2 information found in the Texas Election</p> <p>3 Administration Management System (TEAM) database</p> <p>4 that was produced by the defendant in his</p> <p>5 lawsuit." Is that an accurate reading of that</p> <p>6 topic?</p> <p>7 A Yes.</p> <p>8 Q Is it your understanding that you've</p> <p>9 been designated by the Department of Veterans</p> <p>10 Affairs to testify and give truthful and binding</p> <p>11 answers on its behalf regarding that topic?</p> <p>12 A Yes.</p> <p>13 Q And are you prepared to testify to</p> <p>14 that topic?</p> <p>15 A Yes.</p> <p>16 Q Mr. Mims, Topic 3 says, "With regard</p> <p>17 to a database described in Matter 1 above, the</p> <p>18 frequency and process by which such a database is</p> <p>19 maintained and updated." Is that an accurate</p> <p>20 reading of that topic?</p> <p>21 A Yes.</p> <p>22 Q Mr. Mims, are you aware that eight</p> <p>23 minutes prior to the start of this deposition the</p> <p>24 Department of Veterans Affairs produced a written</p> <p>25 response to this topic?</p>

<p style="text-align: right;">30</p> <p>1 of that is subject to the attorney/client 2 privilege, is subject to the law enforcement 3 privilege, the investigatory privileges, and all 4 other sorts of government privileges; it could 5 be, in any event. So, we would direct the witness 6 consistent with all of those issues, the scope, 7 and the privileges, not to answer the question. 8 MR. TATUM: Thank you for listing the 9 privileges. I would just reiterate for the record 10 that requesting or instructing a witness not to 11 answer a question based on the objection that 12 it's beyond the scope of the request, that is an 13 improper instruction. So, to the extent that 14 you're instructing him not to answer, on that 15 objection I would just state for the record that 16 I believe that's an improper instruction. 17 MR. HEARD: I understand your position. 18 MR. TATUM: I think we understand each 19 other, so we'll move on. 20 BY MR. TATUM: 21 Q Mr. Mims, could you briefly summarize 22 the match that you conducted in this case? 23 A What do you mean? 24 Q I mean, that DVA conducted a match in 25 this case. I'm asking you to briefly summarize</p>	<p style="text-align: right;">32</p> <p>1 A Yes, I do. 2 Q And what is this document? 3 A This is the declaration describing the 4 data and the process to be used in performing the 5 matching. 6 Q If you would please turn to the page 7 - I don't know if our copy has numbers on it. 8 Mine does not, I apologize. Could you turn to the 9 page that has one paragraph on it, and that's 10 paragraph 11, about five or six pages in. 11 A Okay, I have it. 12 Q Okay. Do you see a signature on that 13 page? 14 A Yes, I do. 15 Q Is that your signature? 16 A Yes, it is. 17 Q Did you assist in the preparation of 18 this document? 19 A What did you mean when you say 20 "assist?" 21 Q Did you help compile the information 22 contained in this document, or did you actually 23 write what's in this document yourself? 24 A No. 25 MR. HEARD: That's a compound question.</p>
<p style="text-align: right;">31</p> <p>1 the process of conducting that match. 2 A Okay. We received the TEAM database, 3 we loaded it into an area that we had available 4 to us where we could establish a flat file 5 containing the Texas database, pull in the 6 applicable information from the VA MVI, 7 standardize that information as described in the 8 instructions, and then go through the various 9 matching combinations that were specified in 10 those instructions. 11 MR. TATUM: Okay, thank you. At this 12 point I'd like for Sam, if you would please 13 locate the declaration of Michael Mims, and mark 14 it as Exhibit 2, and hand it to the witness, 15 please. 16 (Whereupon, the above-referred to 17 document was marked as Exhibit 2 for 18 identification.) 19 THE WITNESS: Thanks. 20 COURT REPORTER: They have the exhibit. 21 BY MR. TATUM: 22 Q Okay. Mr. Mims, I think you think you 23 referenced this document earlier. Could you tell 24 me again, do you recognize the document that was 25 just handed to you?</p>	<p style="text-align: right;">33</p> <p>1 I'll just object to that. 2 MR. TATUM: Okay. I'll separate those 3 questions. 4 BY MR. TATUM: 5 Q Mr. Mims, did you write any of the 6 language that is in this document? 7 A No. Well, hold on. Do you consider 8 Exhibit B part of this document? I'm assuming you 9 do. 10 Q No, just the - not Exhibit A or B, 11 but just the first part of it. All the numbered 12 paragraphs starting from 1 to 11 before your 13 signature. 14 A And the question is did I assist in 15 writing that part of the document? 16 Q Yes. 17 A No, I did not. 18 Q Did you assist in any way in the 19 preparation of this document? 20 MR. HEARD: Objection; vague, but you 21 can answer. 22 THE WITNESS: No. 23 BY MR. TATUM: 24 Q Mr. Mims, aside from signing your name 25 at the end of this document you were not involved</p>

<p style="text-align: right;">34</p> <p>1 in the compiling or drafting of this document at 2 all. Is that correct? 3 A That is correct. 4 Q Could you please turn to the page that 5 has Paragraph 3 on the top of it, and let me know 6 when you're there. 7 A I have it in front of me. 8 Q Okay. Could you tell me what generally 9 Paragraph 3 describes? 10 A Paragraph 3 describes the receipt of 11 the hard drive containing the data from 12 Department of Justice. It describes the size of 13 the data, the number of records contained in the 14 data, what the data is. It also describes an 15 issue that we had where the data originally 16 received was corrupted, and describes another 17 copy of that data being sent to VA that was not 18 corrupted. 19 Q Okay. Could you tell me exactly how 20 that hard drive was delivered to DVA? 21 A I'm not sure what you mean. 22 Q How did DVA obtain possession of the 23 hard drive described there? 24 A It was delivered to one of the VA's 25 representatives who loaded - who received the</p>	<p style="text-align: right;">36</p> <p>1 Q And where was that information 2 uploaded? 3 A Into a database housed at the Austin 4 Automation Center. 5 Q Is that in Austin, Texas? 6 A Yes, in Austin, Texas. 7 Q And, Mr. Mims, I don't believe I asked 8 you before, where is your office? 9 A My office is in Tuscaloosa, Alabama. 10 Q Were you present in Austin when the 11 data file described in Paragraph 3 was delivered 12 or uploaded? 13 A No. 14 Q Does Paragraph 4 right below that 15 describe the data that was in the file delivered 16 by Department of Justice? 17 A Yes. 18 Q And it's described as different fields 19 of data. Correct? 20 A Yes. 21 Q Looking on the column on the left if 22 you go down towards the bottom there begins a 23 series of entries of capital letters, the first 24 one being AGDN. Do you see that? 25 A Yes.</p>
<p style="text-align: right;">35</p> <p>1 data and then loaded it into our system. 2 Q And do you remember who that DVA 3 representative was? 4 A I do not. 5 Q So, it was delivered to a 6 representative. Did that same representative also 7 upload the information that's described in that 8 paragraph? 9 A I do not know. 10 Q That paragraph describes that the file 11 was corrupted in the process of being loaded. 12 Could you tell me in what way it was corrupted? 13 A I can't describe what the corruption 14 was. All I can say is that it was - we were 15 unable to read the data on that drive when it was 16 received. 17 Q So, did you request that the 18 Department of Justice send you another copy of 19 that data? 20 A Yes. 21 Q And when you received the copy of the 22 data there was no problem loading it, it was not 23 corrupted, and that information was uploaded. 24 Correct? 25 A Correct.</p>	<p style="text-align: right;">37</p> <p>1 Q Can you tell me what those letters and 2 combinations represent? 3 A I cannot tell you specifically what 4 AGDN is. I don't have that information in front 5 of me. 6 Q Do you know what general purpose those 7 fields serve? 8 A This was the combination - the data 9 set up in combination as described in the process 10 for us to use in doing the matching with the 11 various data fields that concatenated together 12 for the various combinations of data to be used. 13 Q Can you tell me with regard to these 14 fields listed here, can you tell me how the DVA 15 used these fields during the matching process? 16 A Well, for each one of these 17 combinations which these signify we developed a 18 similar combination based on data extracted from 19 our Master Veteran Index to do the comparison and 20 the matching of the Texas data to the data within 21 our MVI. 22 Q And did you use all of the fields 23 listed under Topic 4, or under Paragraph 4 during 24 that match? 25 A No, we did not use all of the fields.</p>

<p style="text-align: right;">38</p> <p>1 Q Why did you use some fields, but not 2 others?</p> <p>3 A We used the fields that were specified 4 in that various combinations which we were asked 5 to do the matching on.</p> <p>6 Q And with those matches on those 7 combinations, did you run those pursuant to the 8 matching protocol that's attached as an exhibit 9 to this document?</p> <p>10 A Yes, we did the matching exactly as 11 was described later in this document.</p> <p>12 Q When you all received the data on the 13 file that was delivered from the Department of 14 Justice, what were you told that that data 15 represented?</p> <p>16 A We were told it was a copy of the 17 Texas TEAM database, specific data elements from 18 it, that it contained the different combinations 19 of those data elements that we were to use in the 20 matching.</p> <p>21 Q When the file was uploaded and the 22 information displayed in whatever form it was 23 displayed in, was there anything there to 24 indicate that this came from only the TEAM 25 database?</p>	<p style="text-align: right;">40</p> <p>1 Q And can you tell me what DVA databases 2 were used to conduct the match in this case?</p> <p>3 A We used data from the VA's 4 Administrative Data Repository or ADR. There's 5 two sources of data that we used within that 6 database, one being the Master Veteran Index 7 containing the identity information. The other is 8 data from an enrollment file which contains the 9 address information that was used for the 10 matching.</p> <p>11 Q So, how many total databases of DVA 12 were used?</p> <p>13 A Two.</p> <p>14 Q And did you run separate independent 15 matches for each database, or was there one match 16 in process that incorporated both of those 17 databases?</p> <p>18 A There was one matching process that 19 used data from both the MVI and from the 20 enrollment files.</p> <p>21 Q Okay. So, the data in those two 22 databases, those two DVA databases that you 23 described, those were compiled into kind of one 24 - well, let me back up.</p> <p>25 So, just to confirm you didn't run one</p>
<p style="text-align: right;">39</p> <p>1 A No.</p> <p>2 Q Okay. So, the only - is it true that 3 the only way that you know that this came from 4 the TEAM database is because that's what the 5 Department of Justice told you when they 6 delivered the hard drive?</p> <p>7 A Yes.</p> <p>8 Q So, to the best of your knowledge the 9 information contained in the file is only from 10 the TEAM database, and not from any other 11 database from the State of Texas.</p> <p>12 A Yes.</p> <p>13 Q When you all received the data file 14 did the DVA do anything to clean up that data, or 15 rearrange it in any way necessary?</p> <p>16 MR. HEARD: Objection; vague, but you 17 can answer.</p> <p>18 THE WITNESS: No.</p> <p>19 BY MR. TATUM:</p> <p>20 Q So, you all took the information as it 21 appeared in the file and used it during the 22 matching process in exactly the way that you were 23 told to by the Department of Justice in the 24 matching protocol. Is that correct?</p> <p>25 A Yes.</p>	<p style="text-align: right;">41</p> <p>1 match with the Texas data and the - and one of 2 the DVA databases, and then run another match 3 with the other DVA database. There was just one 4 match conducted between the Texas database and 5 information contained in both of the DVA 6 databases. Is that correct?</p> <p>7 A Yes.</p> <p>8 Q And please correct me if I'm wrong in 9 describing any of these technical aspects of this 10 matching -</p> <p>11 A Well, let me back up. It may be 12 considered just one database, the ADR, the 13 Administrative Data Repository, but there were 14 data elements required for the matching that came 15 from two files within that database. It really - 16 sorry.</p> <p>17 Q No, that's okay. Go ahead.</p> <p>18 A No, it just kind of depends on how you 19 define - how you're looking at a database 20 itself.</p> <p>21 Q Okay. So, is it possible then that one 22 database, such as the ADR, contains separate 23 databases within it?</p> <p>24 A It could be considered that, yes.</p> <p>25 MR. TATUM: Did I just hear a cow moo?</p>

<p style="text-align: right;">42</p> <p>1 MS. BALDWIN: Or a Blackberry. 2 MR. HEARD: Or a Blackberry that sounds 3 like a cow. 4 MR. TATUM: Okay. Sorry, I just want to 5 make sure everything is all right over there. 6 BY MR. TATUM: 7 Q Okay. So, the ADR database that was 8 used to conduct this match contained within it 9 kind of two sources of information. Correct? 10 A Yes. It contains the two sources that 11 were used in this exercise. 12 Q And in the matching protocol provided 13 by the Department of Justice, did they instruct 14 you how to compile information from those two 15 sources within the ADR? 16 A They gave us very detailed 17 instructions as far as how these various 18 combinations were to be assembled, and from that 19 we determined which information should come from 20 the MVI, and which should come from the 21 enrollment files. 22 Q Both of which are under the ADR. 23 Correct? 24 A Yes. 25 Q Okay. Once you determined what</p>	<p style="text-align: right;">44</p> <p>1 make it work within our environment, but did not 2 change anything that would have affected the 3 matching or the logic contained in those models. 4 Q So, you followed the model codes 5 provided by the Department of Justice in - I'm 6 sorry. How exactly did you use those model codes 7 that you just referenced that were provided by 8 the Department of Justice? 9 A We used that model code to do the 10 actual matching. There were some syntactic 11 changes that we had to make as far as the basic 12 structure of those models to work within our 13 environment. But those changes were very, very 14 minor and did not affect the logic that was 15 proposed within that model, or those models. 16 Q Could the matching process have been 17 conducted without making those syntactic changes? 18 A Not with the tools that we had 19 available for our use. 20 Q Have you ever had to make similar 21 syntactic changes for other matches before? 22 MR. HEARD: Objection; vague. 23 THE WITNESS: Yes, that's a fairly 24 common occurrence, because you have different 25 versions of the SQL environment that you're</p>
<p style="text-align: right;">43</p> <p>1 information from those two files within the ADR, 2 once you determined what information from those 3 two files needed to be used during this match, 4 how did you go about extracting that information 5 and putting it into a form where it was ready for 6 the matching process? 7 A We extracted the pertinent pieces of 8 information from the database. It's an Oracle 9 database that ADR is housed in. We extracted that 10 data both from MVI and from the enrollment files 11 into a flat file. Then we loaded it into a SQL 12 server database which we use SQL code to do the 13 actual matching of these various combinations. 14 Q I'm sorry. Did you say SQL code? 15 A Yes. It's S-Q-L, Structured Query 16 Language, I'm sorry. 17 Q Thank you. And at any point during the 18 process that you've described up to this point, 19 was it necessary for DVA to create its own 20 program in order to conduct the match according 21 to the matching protocol provided by the 22 Department of Justice? 23 A We used the model, code models that 24 the Department of Justice provided for us. We did 25 have to make some minor changes syntactically to</p>	<p style="text-align: right;">45</p> <p>1 using, and those sorts of things that require 2 some minor tuning of those to work within that 3 environment. 4 BY MR. TATUM: 5 Q And who makes the ultimate decision 6 with regard to any minor tuning that needs to 7 take place when conducting a match? 8 MR. HEARD: Again, objection; vague. 9 THE WITNESS: The specialists who I had 10 assigned to perform the actual matching, those 11 two individuals proposed the changes and did make 12 those changes. 13 BY MR. TATUM: 14 Q And did they make those changes 15 according to any kind of protocol, or guidelines, 16 or internal rules that govern that kind of thing 17 at the DVA? 18 A They made those changes in 19 conjunction, or in line with the syntax required 20 with our SQL, SQL server environment. 21 Q So, they presented those changes to 22 you and you approved them, and then they were 23 executed. Is that correct? 24 MR. HEARD: Objection; misstates his 25 testimony.</p>

<p style="text-align: right;">50</p> <p>1 in a name. Would that also include like dashes 2 in a birth date? You know, for example, someone's 3 birth date may be, you know, 1-1-82, and in 4 another database that would be written as 1/1/82, 5 something like that. Is that an example of a 6 formatting issue that you all encountered in 7 conducting the matching process in this case? 8 A The instructions laid our specific 9 requirements for how those - each of those data 10 fields should be structured. One of those 11 requirements was the removal of any dashes or 12 that sort of information from the date of birth 13 field, for example. So, what we - the only 14 changes we made were to structure the data to be 15 used in this matching to match what was specified 16 within the instructions we were given. 17 Q Okay. And with regard to all those 18 changes that you were directed to make, did you 19 run any kind of tests or trial runs to insure 20 that those instructions had been followed and 21 that the matching process would work according to 22 the protocol? 23 A We did do reviews to make sure that 24 the data had been structured as specified. 25 Q And did you conduct any kind of tests</p>	<p style="text-align: right;">52</p> <p>1 MR. TATUM: And I'm having - if any of 2 my questions aren't making sense please just let 3 me know. 4 THE WITNESS: I am certain that our 5 staff had taken a small subset and maybe a couple 6 of entries and run through the algorithm to make 7 sure everything was syntactically correct, that 8 there were no syntax errors, or errors in 9 compilation of the data prior to running the main 10 matching process. 11 BY MR. TATUM: 12 Q In conducting the matching process 13 according to the protocols, did you encounter any 14 kind of problems or errors that needed to be 15 addressed? 16 MR. HEARD: Objection; vague, but you 17 can answer. 18 THE WITNESS: Of course, we had the 19 initial problem with the corruption of the data 20 that we received initially. Beyond that, I do not 21 know of any significant issues that we had once 22 we had the correct data in the correct format. I 23 don't know of any issues that we had with the 24 data, or the system in doing the matching. 25 BY MR. TATUM:</p>
<p style="text-align: right;">51</p> <p>1 or trial runs to make sure that the match would 2 be conducted in accordance with those 3 instructions? 4 A I'm - could - what do you mean by 5 "trial run?" 6 Q In other words, if you're required to 7 format the DVA's data in a way so that it could 8 be accurately matched with the Texas data, did 9 you do anything to insure that the way that you 10 formatted the DVA data would actually match or 11 not match with the Texas data accurately? 12 A We ran processes that would make sure, 13 for example, that the dashes had been removed 14 from the data, as expected, to make sure that it 15 did match what was specified within the 16 instructions. 17 Q So, did you run any kind of test run 18 with a, you know, subset of fields or 19 information, or combinations within the entire 20 matching process, or did you just run the whole 21 - once you got all the, you know, formatting 22 changes made did you just run the whole matching 23 process once? 24 MR. HEARD: I'm going to object to the 25 form of the question. It's kind of vague.</p>	<p style="text-align: right;">53</p> <p>1 Q In uploading, you mentioned a 2 corrupted file. In uploading the Texas data in 3 preparation for the matching process, do you 4 think anything occurred that might possibly have 5 altered that data? 6 A No. 7 Q In preparing the data from the DVA 8 databases for the matching process, anything 9 occur that might have altered that data? 10 A No. 11 Q And during the matching process itself 12 did you encounter any issues, errors, or problems 13 that may have altered the data, or the results 14 therefrom? 15 A No. 16 Q Mr. Mims, once the matching process 17 was completed how were the results of that 18 process compiled? 19 A What - I'm not sure I understand the 20 question. 21 Q Once the matching process was 22 completed, in what way did you compile or display 23 the results of that matching process? 24 A I'm not sure I understand your 25 question. Are you - could you please phrase it</p>

<p style="text-align: right;">62</p> <p>1 or communicate in any way with Lorraine Minnite?</p> <p>2 A No. You left off in the matching</p> <p>3 process there, but I'm assuming that was implied.</p> <p>4 Q Yes, it was. Thank you. There are a</p> <p>5 lot of names here.</p> <p>6 A I understand.</p> <p>7 Q During the matching process did you or</p> <p>8 anyone else at the DVA involved in the matched</p> <p>9 process receive instruction from or communicate</p> <p>10 in any way with Kevin Jewell?</p> <p>11 A No.</p> <p>12 Q During the matching process did you or</p> <p>13 anyone else at the DVA involved in the matching</p> <p>14 process receive instruction from or communicate</p> <p>15 in any way with Coleman Bazelon?</p> <p>16 A No.</p> <p>17 Q During the matching process did you or</p> <p>18 anyone else at the DVA involved in that process</p> <p>19 communicate with or receive instruction from</p> <p>20 Orville Burton?</p> <p>21 A No.</p> <p>22 MR. TATUM: Can we go off record just</p> <p>23 for a quick five minutes?</p> <p>24 MS. BALDWIN: Sure.</p> <p>25 MR. HEARD: Okay, that's fine.</p>	<p style="text-align: right;">64</p> <p>1 the question, and to the scope to the extent it</p> <p>2 exceeds whether those documents were used in</p> <p>3 connection with the matching that was performed</p> <p>4 in this case. You can answer subject to that.</p> <p>5 THE WITNESS: Not that I'm aware of.</p> <p>6 BY MR. TATUM:</p> <p>7 Q Do you know if any documents or</p> <p>8 electronically stored information, codes,</p> <p>9 manuals, or software other than anything you've</p> <p>10 already mentioned was created specifically to</p> <p>11 facilitate the use of DVA databases in this</p> <p>12 matching process?</p> <p>13 A No.</p> <p>14 Q Mr. Mims, I believe that's all the</p> <p>15 questions I have for you today. Before I pass the</p> <p>16 witness, is there anything with regard to any</p> <p>17 answer you've given today that you'd like to</p> <p>18 clarify or amend?</p> <p>19 A No.</p> <p>20 MR. TATUM: Well, I thank you for your</p> <p>21 patience as I tried to talk about very technical</p> <p>22 matters. And with that, I pass the witness.</p> <p>23 MR. HEARD: Thanks, Stephen. Mr. Mims,</p> <p>24 I just have - I'm, for the record, Bradley Heard</p> <p>25 for the United States. I just have a couple of</p>
<p style="text-align: right;">63</p> <p>1 VIDEOGRAPHER: Going off the record at</p> <p>2 13:02.</p> <p>3 (Whereupon, the above-entitled matter</p> <p>4 went off the record at 1:04 p.m., and resumed at</p> <p>5 1:10 p.m.)</p> <p>6 VIDEOGRAPHER: Going back on the record</p> <p>7 at 13:09.</p> <p>8 BY MR. TATUM:</p> <p>9 Q Mr. Mims, could you describe for me</p> <p>10 any documents, electronic information, codes,</p> <p>11 manuals or software that facilitated the use of</p> <p>12 the databases that were used in this matching</p> <p>13 process?</p> <p>14 A Used in the matching process, of</p> <p>15 course, we used the declaration that had the</p> <p>16 instructions that described how we were to do the</p> <p>17 matching process. We used the environment, the</p> <p>18 SQL environment that I described earlier to</p> <p>19 actually perform the matching process. I do not</p> <p>20 know of any other documents that were used to</p> <p>21 support this.</p> <p>22 Q Does the DVA use its database to</p> <p>23 preserve any kind of governing software, or code,</p> <p>24 or manual?</p> <p>25 MR. HEARD: Object to the vagueness of</p>	<p style="text-align: right;">65</p> <p>1 questions on your declaration that's been marked</p> <p>2 as Defendant's Exhibit 2 in this deposition.</p> <p>3 CROSS-EXAMINATION</p> <p>4 BY MR. HEARD:</p> <p>5 Q You indicated that you had signed the</p> <p>6 deposition on - I'm sorry, the declaration on</p> <p>7 that page that contains Paragraph 11. Is that</p> <p>8 correct?</p> <p>9 A Yes.</p> <p>10 Q Prior to signing the document did you</p> <p>11 review the document?</p> <p>12 A Absolutely.</p> <p>13 Q Did you review it for accuracy?</p> <p>14 A Yes.</p> <p>15 Q Was it, in fact, accurate?</p> <p>16 A Yes.</p> <p>17 Q Did you understand that you were</p> <p>18 signing that document stating that it was true</p> <p>19 and accurate, and under penalty of perjury?</p> <p>20 A I did.</p> <p>21 MR. HEARD: Okay, thank you. I have no</p> <p>22 further questions. I think - so, that's all we</p> <p>23 have, Stephen.</p> <p>24 MR. TATUM: Okay. Well, I guess that</p> <p>25 concludes this portion of the deposition. How do</p>

MAJOR FORREST MITCHELL

8/12/2014

1 (Pages 1 to 4)

<p style="text-align: right;">1</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE SOUTHERN DISTRICT OF TEXAS 3 CORPUS CHRISTI DIVISION 4 MARC VEASEY, et al.,) 5 Plaintiffs,) 6 VS.) CIVIL ACTION 7 RICK PERRY, et al.,) NO. 2:13-CV-348 (NGR) 8 Defendants.) 9 ***** 10 ORAL DEPOSITION OF 11 MAJOR FORREST MITCHELL 12 AUGUST 12, 2014 13 ***** 14 ORAL DEPOSITION OF MAJOR FORREST MITCHELL, 15 produced as a witness at the instance of the 16 Plaintiff-Intervenors and duly sworn, was taken in 17 the above-styled and numbered cause on August 12, 2014, 18 from 9:11 a.m. to 2:00 p.m., before Jodi Cardenas, RPR, 19 CSR in and for the State of Texas, reported by 20 computerized stenotype machine at the Office of the 21 Attorney General of Texas, 209 West 14th Street, 7th 22 Floor, Austin, Texas, pursuant to the Federal Rules of 23 Civil Procedure. 24 25</p>	<p style="text-align: right;">3</p> <p>1 APPEARANCES (CONT'D) 2 3 FOR THE TEXAS STATE CONFERENCE OF THE NAACP AND THE 4 MEXICAN AMERICAN LEGISLATIVE CAUCUS: 5 6 Ms. Jennifer L. Clark (Via Telephone) 7 Ms. Myrna Pérez (Via Telephone) 8 Mr. Vishal Agraharkar (Via Telephone) 9 BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW 10 161 Avenue of the Americas, 12th Floor 11 New York, New York 10013 12 (646) 292-8332 13 clarkj@exchange.law.nyu.edu 14 perezm@exchange.law.nyu.edu 15 agraharkar@exchange.law.nyu.edu 16 -and- 17 Mr. Ezra Rosenberg 18 DECHERT, LLP 19 902 Carnegie Center, Suite 500 20 Princeton, New Jersey 08540 21 (609) 955-3222 22 ezra.rosenberg@dechert.com 23 24 25</p>
<p style="text-align: right;">2</p> <p>1 APPEARANCES 2 3 FOR THE PLAINTIFF-INTERVENORS: 4 Mr. Kelly P. Dunbar 5 WILMER, CUTLER, PICKERING, HALE & DORR, LLP 6 1875 Pennsylvania Avenue, NW 7 Washington, DC 20006 8 (202) 663-6262 9 kelly.dunbar@wilmerhale.com 10 11 FOR THE PLAINTIFFS, MARC VEASEY, ET AL.: 12 13 Mr. Scott Brazil (Via Telephone) 14 BRAZIL & DUNN, LLP 15 4201 Cypress Creek Parkway, Suite 530 16 Houston, Texas 77068 17 (281) 580-6310 18 scott@brazilanddunn.com 19 20 FOR THE UNITED STATES DEPARTMENT OF JUSTICE: 21 Mr. Bruce I. Gear (Via Telephone) 22 UNITED STATES DEPARTMENT OF JUSTICE, VOTING SECTION 23 950 Pennsylvania Avenue, Room 7254 NWB 24 Washington, DC 20530 25 (202) 353-0419 bruce.gear@usdoj.gov 26 27 FOR THE ATTORNEY GENERAL OF TEXAS: 28 29 Mr. J. Reed Clay, Jr. 30 ASSISTANT ATTORNEY GENERAL 31 209 West 14th Street, 7th Floor 32 Austin, Texas 78701 33 (512) 936-2541 34 reed.clay@oag.state.tx.us 35</p>	<p style="text-align: right;">4</p> <p>1 INDEX 2 3 PAGE 4 Appearances.....2 5 MAJOR FORREST MITCHELL 6 Examination by Mr. Dunbar.....6 7 Examination by Ms. Clark.....162 8 Further Examination by Mr. Dunbar.....180 9 Reporter's Certificate.....199 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

MAJOR FORREST MITCHELL

8/12/2014

4 (Pages 13 to 16)

<p style="text-align: right;">13</p> <p>1 MR. DUNBAR: Hi. We're in the middle of a</p> <p>2 deposition.</p> <p>3 UNIDENTIFIED FEMALE SPEAKER: Yes.</p> <p>4 MR. CLAY: Is Ezra on the line?</p> <p>5 UNIDENTIFIED FEMALE SPEAKER: I'm sorry.</p> <p>6 I don't know. The line was ringing so I picked it up.</p> <p>7 THE REPORTER: Do you want to go off while</p> <p>8 we --</p> <p>9 MR. DUNBAR: Yeah.</p> <p>10 (Off the record)</p> <p>11 Q. (BY MR. DUNBAR) So in preparation for your</p> <p>12 deposition, just to be clear, have you reviewed any</p> <p>13 expert reports filed by any party in this litigation?</p> <p>14 A. No, sir.</p> <p>15 Q. And did you have any conversations with your</p> <p>16 staff regarding the topics that you were going to</p> <p>17 discuss today?</p> <p>18 A. Yes, sir, I did.</p> <p>19 Q. And who did you speak with about these topics?</p> <p>20 A. I spoke with my administrative assistant,</p> <p>21 Sherry Papke (phonetic), to help me -- this was months</p> <p>22 ago -- to get the budget reports on how much the office</p> <p>23 had spent on Election violations and prosecutions and</p> <p>24 investigations.</p> <p>25 Q. Okay. And is that the only member of the staff</p>	<p style="text-align: right;">15</p> <p>1 A. Yes, sir.</p> <p>2 (Exhibit No. 1 marked)</p> <p>3 Q. (BY MR. DUNBAR) And I'm now showing you a</p> <p>4 document that has been labeled as Exhibit 1. Do you</p> <p>5 know what this document is?</p> <p>6 A. Yes, sir. It appears to be a transcript of the</p> <p>7 deposition in the Section Five litigation.</p> <p>8 Q. And I believe we've already established, but</p> <p>9 just so the record is clear, you recall that deposition.</p> <p>10 Correct?</p> <p>11 A. Yes, sir, I do.</p> <p>12 Q. And I also believe that you testified that you</p> <p>13 reviewed that transcript in preparation for today's</p> <p>14 deposition. Is that correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And to the best of your recollection, was your</p> <p>17 deposition testimony in the Section Five litigation</p> <p>18 truthful and accurate?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Do you have any reason to now believe that any</p> <p>21 part of your prior deposition testimony was inaccurate</p> <p>22 or incomplete in any way?</p> <p>23 A. No, sir.</p> <p>24 Q. I believe you've also established that you do</p> <p>25 recall that you testified under oath before a</p>
<p style="text-align: right;">14</p> <p>1 that you spoke with about the deposition topics?</p> <p>2 A. Probably Tamara Chandler as well, who is our</p> <p>3 office manager.</p> <p>4 Q. And what would -- what would the nature of that</p> <p>5 conversation have been?</p> <p>6 A. The same thing --</p> <p>7 Q. Okay.</p> <p>8 A. -- to prepare the -- to prepare -- to get a</p> <p>9 budget report.</p> <p>10 Q. Did you have any conversations with anyone else</p> <p>11 outside your office in the Attorney General's office</p> <p>12 pertaining to this deposition?</p> <p>13 A. No, sir.</p> <p>14 Q. And did you speak with anyone outside the</p> <p>15 Attorney General's office in preparation for or about</p> <p>16 this deposition?</p> <p>17 A. No, sir.</p> <p>18 Q. And as a -- just as an aside, at times I might</p> <p>19 refer to the Attorney's General's office as OAG in lieu</p> <p>20 of saying the full name. You understand what I mean?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Great. Thank you.</p> <p>23 Now we've already established, I think,</p> <p>24 that you were deposed as a part of the Section Five</p> <p>25 litigation. Is that correct?</p>	<p style="text-align: right;">16</p> <p>1 three-judge panel in the United States for the District</p> <p>2 of Columbia in that same Section Five case. Is that</p> <p>3 correct?</p> <p>4 A. Yes, sir.</p> <p>5 (Exhibit No. 2 marked)</p> <p>6 Q. (BY MR. DUNBAR) Major Mitchell, you've now</p> <p>7 been handed a document that's been labeled as Exhibit 2.</p> <p>8 Do you know what this document is?</p> <p>9 A. Yes, sir. This appears to be the transcript</p> <p>10 from the bench trial which occurred in Washington, D.C.</p> <p>11 on the Section Five litigation.</p> <p>12 Q. And to be clear, it appears to be -- or it is</p> <p>13 your trial testimony. Is that correct?</p> <p>14 A. Okay. Please give me a moment.</p> <p>15 Q. Absolutely.</p> <p>16 A. Yes, sir, it does.</p> <p>17 Q. I believe you testified previously that you</p> <p>18 reviewed a transcript of this trial testimony before</p> <p>19 that -- this deposition. Is that correct?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And that testimony was under oath. Correct?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Do you have any reason now to believe that any</p> <p>24 part of your prior trial testimony was inaccurate or</p> <p>25 incomplete in any way?</p>

MAJOR FORREST MITCHELL

8/12/2014

5 (Pages 17 to 20)

<p style="text-align: right;">17</p> <p>1 A. No, sir.</p> <p>2 Q. After the Section Five trial was over, did you</p> <p>3 review your trial testimony at that point in time?</p> <p>4 A. No, I don't believe so.</p> <p>5 Q. Did you review the trial testimony of anyone</p> <p>6 else in the Section Five case?</p> <p>7 A. No, sir.</p> <p>8 Q. Were you present live for the testimony of</p> <p>9 other witnesses during the Section Five case?</p> <p>10 A. No, sir.</p> <p>11 Q. Did you have any discussions with any of the</p> <p>12 other state's witnesses about their testimony after the</p> <p>13 Section Five litigation?</p> <p>14 A. No, sir.</p> <p>15 Q. Did you have any conversation with anyone in</p> <p>16 the Texas Attorney General's office after your trial</p> <p>17 testimony in the Section Five case about your testimony?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And whom did you speak with?</p> <p>20 A. I may have spoken with Patrick Sweeten and then</p> <p>21 Reynolds Brissenden and then colleagues within my</p> <p>22 office.</p> <p>23 Q. Okay. And the first two gentlemen, I believe,</p> <p>24 were those your attorneys --</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">19</p> <p>1 office, outside of your particular -- outside of SIU,</p> <p>2 say that you did a good or poor job testifying?</p> <p>3 MR. CLAY: Again, to the extent that it</p> <p>4 was -- included an attorney, you don't need to answer.</p> <p>5 To the extent there was not an attorney, you can answer.</p> <p>6 THE WITNESS: I -- no, not to my memory.</p> <p>7 Q. (BY MR. DUNBAR) And in the time period since</p> <p>8 the Section Five litigation, which was July of 2012,</p> <p>9 have you had conversation with anyone in the Texas</p> <p>10 Attorney General's office regarding in-person voter</p> <p>11 fraud?</p> <p>12 MR. CLAY: Same objection. Same</p> <p>13 instruction.</p> <p>14 THE WITNESS: Yes, sir.</p> <p>15 Q. (BY MR. DUNBAR) And whom did you speak with?</p> <p>16 A. Investigators who were assigned to specific</p> <p>17 cases as well as, potentially, the captain of the</p> <p>18 special investigations unit, Daniel Guajardo.</p> <p>19 Q. So all of your conversations -- it sounds to me</p> <p>20 like those conversations would have been limited to</p> <p>21 discussions about particular cases or allegations or</p> <p>22 investigations of in-person voter fraud?</p> <p>23 A. Correct.</p> <p>24 Q. Did you have any more general discussions with</p> <p>25 anyone in the Texas Attorney General's office about the</p>
<p style="text-align: right;">18</p> <p>1 Q. -- in the Section Five case?</p> <p>2 A. (Witness nods head).</p> <p>3 Q. And then other than your attorneys that</p> <p>4 represented you in that case, do you recall whom in your</p> <p>5 office you spoke with about your testimony?</p> <p>6 A. It could have been any of the investigators who</p> <p>7 worked for me or in my division. Many people had</p> <p>8 questions about how it went in Washington, D.C.</p> <p>9 Q. And what did you report?</p> <p>10 MR. CLAY: I'll object to the extent that</p> <p>11 it involves a conversation that includes an attorney.</p> <p>12 Any of that would be attorney-client privilege.</p> <p>13 But to the extent that it doesn't, you can</p> <p>14 answer.</p> <p>15 MR. DUNBAR: Yes.</p> <p>16 Q. (BY MR. DUNBAR) And to be -- so the record is</p> <p>17 clear, my question at this point is these conversations</p> <p>18 with your staff to the extent they did not involve an</p> <p>19 attorney.</p> <p>20 A. I -- I would say I had 30 minutes of -- 30 or</p> <p>21 35 minutes of testimony, and it was very -- very</p> <p>22 stressful and intimidating.</p> <p>23 Q. And following the -- I'm sorry, let me</p> <p>24 backtrack.</p> <p>25 Did anyone in the Texas Attorney General's</p>	<p style="text-align: right;">20</p> <p>1 general topic of in-person voter fraud since the --</p> <p>2 since your testimony in the Section Five litigation?</p> <p>3 MR. CLAY: Again, the same objection.</p> <p>4 To the extent it doesn't include an</p> <p>5 attorney, you can answer. To the extent it includes an</p> <p>6 attorney, please do not answer.</p> <p>7 THE WITNESS: I don't specifically recall</p> <p>8 any conversations.</p> <p>9 Q. (BY MR. DUNBAR) Okay. And as Reed mentioned</p> <p>10 at the outset, we have reached an agreement with the</p> <p>11 State and the Attorney General's office to rely a lot on</p> <p>12 your old deposition testimony in lieu of retreading old</p> <p>13 ground. And so -- with that in mind, I wanted to ask a</p> <p>14 few questions about your educational and professional</p> <p>15 background more in the way of just refreshing the</p> <p>16 record. So I'll try and move through it quickly</p> <p>17 understanding that you've testified about this a lot in</p> <p>18 the prior case.</p> <p>19 MR. CLAY: Thank you.</p> <p>20 Q. (BY MR. DUNBAR) So, Major Mitchell, what is</p> <p>21 your current job title?</p> <p>22 A. I am the major of -- in the law enforcement</p> <p>23 division, and I currently supervise or oversee the sex</p> <p>24 offender apprehension unit as well as the special</p> <p>25 investigations unit.</p>

MAJOR FORREST MITCHELL

8/12/2014

6 (Pages 21 to 24)

<p style="text-align: right;">21</p> <p>1 Q. And so correct me if I'm wrong. At the time of</p> <p>2 your previous deposition, I believe you supervised the</p> <p>3 special investigations unit, or SIU, in the fugitive</p> <p>4 apprehension unit. Is that correct?</p> <p>5 A. Yes, sir.</p> <p>6 Q. So you've had some change in job responsibility</p> <p>7 since you last testified?</p> <p>8 A. I apologize. We commonly refer to the fugitive</p> <p>9 unit as the sex offender apprehension unit or vice</p> <p>10 versa.</p> <p>11 Q. I see. So it's the same --</p> <p>12 A. It's the same things.</p> <p>13 Q. Since your prior deposition in the Section Five</p> <p>14 litigation, have you been promoted or demoted in any</p> <p>15 way?</p> <p>16 A. No, sir.</p> <p>17 Q. And have your job responsibilities changed in</p> <p>18 any way since the June 2012 deposition?</p> <p>19 A. No, sir.</p> <p>20 Q. Have you received any additional degrees since</p> <p>21 June 2012?</p> <p>22 A. No, sir.</p> <p>23 Q. Have you taken any additional graduate courses</p> <p>24 since June 2012?</p> <p>25 A. No, sir.</p>	<p style="text-align: right;">23</p> <p>1 Q. (BY MR. DUNBAR) So Major Mitchell, I want to</p> <p>2 step back and ask a few questions about the special</p> <p>3 investigations unit, again, without, hopefully,</p> <p>4 retreating too much old ground. Can you describe in a</p> <p>5 general sense the functions of the special</p> <p>6 investigations unit?</p> <p>7 A. The special investigations unit conducts</p> <p>8 criminal investigations which are typically referred to</p> <p>9 our office by local prosecuting attorneys or local law</p> <p>10 enforcement or other governmental officials. And we</p> <p>11 conduct criminal investigations throughout the entire</p> <p>12 State of Texas. And it is comprised of a number of</p> <p>13 different teams which investigate different types of</p> <p>14 crimes specialized in general areas. Some of the teams</p> <p>15 include the election team, a public integrity team, a</p> <p>16 human trafficking team, a money laundering/financial</p> <p>17 crimes team, and a prosecution assistance team.</p> <p>18 Q. And you supervise all of those functions. Is</p> <p>19 that correct?</p> <p>20 A. Yes, sir.</p> <p>21 Q. You would be at the top of the organizational</p> <p>22 chart, so to speak, with respect to each of those teams?</p> <p>23 A. Well, I have bosses, too. And I am the -- I am</p> <p>24 the major -- there is a captain and lieutenant who also</p> <p>25 oversee the investigators. And then above me is a</p>
<p style="text-align: right;">22</p> <p>1 Q. Have you received any additional training</p> <p>2 relating to Election Code violations since June of 2012?</p> <p>3 A. No, sir.</p> <p>4 Q. In your capacity -- in your current job title,</p> <p>5 you -- you would consider yourself a State employee. Is</p> <p>6 that correct?</p> <p>7 A. Yes, sir.</p> <p>8 Q. You're paid by the State, I assume?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And your prior testimony, was that in your</p> <p>11 official capacity on behalf of the State of Texas?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And who are you testifying on behalf of in this</p> <p>14 deposition?</p> <p>15 A. The State of Texas.</p> <p>16 Q. Thank you.</p> <p>17 I want to step back now and just --</p> <p>18 MR. CLAY: I'm going to interject here. I</p> <p>19 think that's not entirely accurate. And -- and I think,</p> <p>20 in part, because your question involves a legal</p> <p>21 conclusion or a legal analysis by Major Mitchell who is</p> <p>22 not a lawyer. He's testifying on behalf of the Attorney</p> <p>23 General's office and not the State of Texas.</p> <p>24 MR. DUNBAR: Okay. Well, we'll note that</p> <p>25 objection with his answer.</p>	<p style="text-align: right;">24</p> <p>1 deputy director and a director as well.</p> <p>2 Q. Of --</p> <p>3 A. The law enforcement division.</p> <p>4 Q. Great. So I think you've answered my next</p> <p>5 question describing the general types of cases and</p> <p>6 investigations that SIU handles. I guess I'll just ask,</p> <p>7 were the teams or the areas of investigation that you</p> <p>8 just identified all of the areas of investigations that</p> <p>9 SIU would be assigned to?</p> <p>10 A. I -- it would also include fraud. Financial</p> <p>11 investigations and fraud.</p> <p>12 Q. So fraud in connection with financial</p> <p>13 institutions or --</p> <p>14 A. A lot of mortgage fraud or -- we do some</p> <p>15 benefit fraud cases as well.</p> <p>16 Q. And what do you -- just so the record is clear,</p> <p>17 what do you mean by benefit fraud cases?</p> <p>18 A. An example of a fraud case that that team might</p> <p>19 work would be a referral from our crime victims'</p> <p>20 compensation fund that somebody perhaps may have</p> <p>21 falsified the records and provided bogus receipts to try</p> <p>22 to get crime victims' compensation funds, and so our</p> <p>23 investigators might investigate that.</p> <p>24 Q. I see. In a very general sense, have SIU's</p> <p>25 priorities changed in any way since June 2012?</p>

MAJOR FORREST MITCHELL

8/12/2014

7 (Pages 25 to 28)

<p style="text-align: right;">25</p> <p>1 A. No.</p> <p>2 Q. So I take it that also means that SIU's</p> <p>3 priorities haven't changed in any way since SB14 became</p> <p>4 effective?</p> <p>5 A. No, sir.</p> <p>6 Q. And so the record is clear, you understand</p> <p>7 that when I refer -- you understand what I mean when I</p> <p>8 refer to SB14, the state's photo voter identification</p> <p>9 law?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And that became effective in July of 2013. Is</p> <p>12 that your understanding?</p> <p>13 A. I don't know for sure exactly when.</p> <p>14 Q. But you -- are you aware that there was a time</p> <p>15 difference between when SB14 was enacted by the</p> <p>16 legislature and signed by the governor and that it was</p> <p>17 actually enforced?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And did you play any role in the decision that</p> <p>20 was made in July of 2013 to begin immediately enforcing</p> <p>21 SB14's photo ID requirements?</p> <p>22 A. No, sir.</p> <p>23 Q. So you didn't have any conversations with</p> <p>24 anyone at the Attorney General's office about that</p> <p>25 issue?</p>	<p style="text-align: right;">27</p> <p>1 Q. So as far as you're aware, there hasn't been a</p> <p>2 substantial increase in staffing --</p> <p>3 A. No.</p> <p>4 Q. -- with respect to the reelection teams since</p> <p>5 your prior deposition?</p> <p>6 A. No.</p> <p>7 Q. And where does that range in terms of size</p> <p>8 within the SIU? Is it the smallest -- smallest team?</p> <p>9 Largest team?</p> <p>10 A. No. I would say it's comparable to the other</p> <p>11 teams.</p> <p>12 Q. So they're all about the same size?</p> <p>13 A. It's the same size as the -- roughly the same</p> <p>14 size as the public integrity team but is not as large</p> <p>15 as, perhaps, the money laundering team which has more</p> <p>16 investigators.</p> <p>17 Q. So money laundering is the largest team</p> <p>18 currently within SIU?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know what the smallest team currently</p> <p>21 within SIU is?</p> <p>22 A. I would say it's a tie between the public</p> <p>23 integrity and elections. Four investigators each.</p> <p>24 Q. And apologies if I missed this before. What</p> <p>25 does the public integrity -- the public integrity team</p>
<p style="text-align: right;">26</p> <p>1 A. No, sir.</p> <p>2 Q. And how many individuals do you currently</p> <p>3 supervise in the special investigations unit?</p> <p>4 A. I believe there are -- I believe there are 44,</p> <p>5 45 positions within the special investigations unit.</p> <p>6 Q. Are all of those positions investigating</p> <p>7 positions, so to speak, or does that include staff and</p> <p>8 administrative support?</p> <p>9 A. That does include administrative and support</p> <p>10 staff, which might include an auditor or analyst as well</p> <p>11 as an administrative assistant.</p> <p>12 Q. And you've identified various teams within SIU</p> <p>13 which are organized by subject matter of investigation.</p> <p>14 Are there any overlap between these teams, meaning the</p> <p>15 individuals belong to more than one team?</p> <p>16 A. Typically not. However, any of the</p> <p>17 investigators could be called upon to assist any of the</p> <p>18 other teams as necessary.</p> <p>19 Q. And how many members are there currently of the</p> <p>20 election team?</p> <p>21 A. Four.</p> <p>22 Q. Four. And was that true at the time of your</p> <p>23 Section Five deposition? Do you recall?</p> <p>24 A. I believe that -- it was either three or four</p> <p>25 at the time.</p>	<p style="text-align: right;">28</p> <p>1 do?</p> <p>2 A. The Texas Attorney General's office frequently</p> <p>3 receives referrals from local county and district</p> <p>4 attorneys involving allegations of criminal misconduct</p> <p>5 by various public officials. It could be a police</p> <p>6 officer. It could be an elected official. It could be</p> <p>7 an appointed official in some agencies. We also receive</p> <p>8 referrals from other state agencies of alleged</p> <p>9 misconduct by some of their employees. And our mission</p> <p>10 and job is to assist the referring agency in conducting</p> <p>11 a criminal investigation. We may or may not assist in</p> <p>12 the prosecution as well, our office.</p> <p>13 Q. What type of training do individuals receive</p> <p>14 when they're assigned particular teams, if any, to -- to</p> <p>15 acquire expertise with respect to the various topics</p> <p>16 they might be investigating?</p> <p>17 A. Mostly it's on-the-job training with the</p> <p>18 guidance of a more experienced investigator. We have an</p> <p>19 orientation and then there might be a slide show</p> <p>20 presentation in the various types of topics. Like human</p> <p>21 trafficking, we have a presentation that we would</p> <p>22 provide investigators on human trafficking, mortgage</p> <p>23 fraud, those kinds of things. But most of it's</p> <p>24 on-the-job training.</p> <p>25 Q. And are the members of the -- the current</p>

MAJOR FORREST MITCHELL

8/12/2014

8 (Pages 29 to 32)

<p style="text-align: right;">29</p> <p>1 members of the election team the same folks that would</p> <p>2 have been there in 2012? Or has there been a turnover</p> <p>3 in that -- in those slots?</p> <p>4 A. There has been turnover in those slots.</p> <p>5 Q. Can you describe generally what the nature of</p> <p>6 that turnover has been? Is it all new? Just a few</p> <p>7 people?</p> <p>8 A. I believe it's all new people.</p> <p>9 Q. And is there a reason why there's been such</p> <p>10 high -- such turnover in the election team?</p> <p>11 A. The investigators have moved to different types</p> <p>12 of units. Some types of cases are more interesting than</p> <p>13 others, and some investigators have wanted different</p> <p>14 challenges.</p> <p>15 Q. Understood. And what types -- we may get again</p> <p>16 to this later, but just to make sure I understand the</p> <p>17 state of the record today, can you describe generally</p> <p>18 the range of Election Code violations that the election</p> <p>19 team might investigate?</p> <p>20 A. When you say range, do you mean the penalty</p> <p>21 range of the offenses?</p> <p>22 Q. No, sir. I meant the nature of the underlying</p> <p>23 Election Code offense.</p> <p>24 A. We receive referrals of in-person voting</p> <p>25 misconduct, which could involve voters or election</p>	<p style="text-align: right;">31</p> <p>and a director.</p> <p>2 Q. And so who are your direct reports? Who</p> <p>3 reports -- who reports to you from within SIU directly?</p> <p>4 A. I have a captain who oversees the unit.</p> <p>5 Q. So the captain oversees the unit, you're kind</p> <p>6 of sitting above the captain, and then you report up to</p> <p>7 the deputy director?</p> <p>8 A. Correct.</p> <p>9 Q. And I believe -- I know one of the things that</p> <p>10 was produced last night, hopefully, was an</p> <p>11 organizational chart, so I'm hoping to study that a</p> <p>12 little bit more and come back to that with any other</p> <p>13 questions I might have. So that testimony has been</p> <p>14 helpful.</p> <p>15 A few more questions, actually, on the</p> <p>16 reporting arrangement. So given the structure of the --</p> <p>17 the -- the criminal division, are your conversations</p> <p>18 about Election Code violations contained within that</p> <p>19 hierarchy or do you have conversations -- setting aside</p> <p>20 your lawyers, do you have conversations with other folks</p> <p>21 in the Attorney General's office about Election Code</p> <p>22 violations?</p> <p>23 A. Yes, sir. We have discussed Election Code</p> <p>24 investigations and prosecutions with, for instance, the</p> <p>25 fugitive apprehension unit --</p>
<p style="text-align: right;">30</p> <p>1 workers. We also receive allegations of mail-in ballot</p> <p>2 violations. And then we also receive referrals</p> <p>3 involving criminal misconduct that's associated with</p> <p>4 voter registration.</p> <p>5 Q. What about things like voter coercion? Would</p> <p>6 that be within the election team's ambit?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And vote buying?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Are there any types of election-type violations</p> <p>11 that would fall outside the jurisdiction, so to speak,</p> <p>12 of the election team? Or would they pretty much handle</p> <p>13 the full range of violations related to elections?</p> <p>14 A. Yes, sir. Under Texas law, there are some</p> <p>15 statutes that are found in the Penal Code, for instance,</p> <p>16 which directly affect voters and elections. An example</p> <p>17 is one that you mentioned which is coercion of a voter</p> <p>18 or bribery of a voter. That's actually found in the</p> <p>19 Penal Code and not in the Elections Code, but our team</p> <p>20 would work both.</p> <p>21 Q. Got it. And you may have answered this</p> <p>22 question earlier, but to make sure I understand, are you</p> <p>23 the highest-ranking individual within the special</p> <p>24 investigations unit?</p> <p>25 A. No, sir. I -- I report to a deputy director</p>	<p style="text-align: right;">32</p> <p>1 Q. Uh-huh.</p> <p>2 A. -- to request their assistance in locating a</p> <p>3 wanted person, for instance.</p> <p>4 Q. And is that it?</p> <p>5 A. I would also say that I would have</p> <p>6 conversations, potentially, with my other majors.</p> <p>7 There's a major of our cyber crimes.</p> <p>8 Q. Uh-huh.</p> <p>9 A. And there's also a major of our professional</p> <p>10 standards and training.</p> <p>11 Q. Uh-huh.</p> <p>12 A. So I could have conversations with them as</p> <p>13 well.</p> <p>14 Q. Are there any -- are there any more policy-type</p> <p>15 offices within the Attorney General's office with which</p> <p>16 you might have conversations about election crime</p> <p>17 issues?</p> <p>18 A. I'm not sure I understand your policy.</p> <p>19 Q. Is there a -- people who deal with legislative</p> <p>20 affairs or policymaking in the Attorney General's</p> <p>21 office --</p> <p>22 A. Yes, sir.</p> <p>23 Q. -- that you might have had conversations with</p> <p>24 about election crime issues?</p> <p>25 A. Yes, sir.</p>

MAJOR FORREST MITCHELL

8/12/2014

9 (Pages 33 to 36)

<p style="text-align: right;">33</p> <p>1 Q. And who would those people be?</p> <p>2 A. We have an intergovernmental relations</p> <p>3 division. And I think it's run by Jay Dyer.</p> <p>4 Q. And again, since June 2012, have you had</p> <p>5 conversations with Mr. Dyer about election crime or</p> <p>6 voting fraud issues?</p> <p>7 MR. CLAY: Well, Mr. Dyer is an attorney.</p> <p>8 And so you can answer to the extent that the discussion</p> <p>9 doesn't involve legal discussions and is only related to</p> <p>10 interactions -- policy discussions or interactions with</p> <p>11 the legislature.</p> <p>12 Q. (BY MR. DUNBAR) But to be clear, I -- I --</p> <p>13 MR. DUNBAR: I appreciate that objection.</p> <p>14 Q. (BY MR. DUNBAR) The questions I just asked now</p> <p>15 are more just foundational whether these conversations</p> <p>16 existed and when. If we can build the record on that.</p> <p>17 MR. CLAY: He was looking at me because he</p> <p>18 knows that Mr. Dyer is an attorney.</p> <p>19 MR. DUNBAR: Sure.</p> <p>20 MR. CLAY: So I just wanted to make him</p> <p>21 aware that there's a certain type of conversation that</p> <p>22 if you decide you want to get into it, that he can talk</p> <p>23 about. And there's a certain type of conversation that</p> <p>24 he can't. So I just I wanted to --</p> <p>25 MR. DUNBAR: No, I appreciate that.</p>	<p style="text-align: right;">35</p> <p>1 MR. CLAY: Are you talking about the</p> <p>2 session that SB14 was enacted?</p> <p>3 MR. DUNBAR: Yes.</p> <p>4 MR. CLAY: That's 2011.</p> <p>5 THE WITNESS: I was not a resource witness</p> <p>6 during that election -- or during that session.</p> <p>7 Q. (BY MR. DUNBAR) Were you a resource witness</p> <p>8 with respect to any of the prior versions of voter</p> <p>9 identification laws?</p> <p>10 A. I believe -- I believe I was on standby in case</p> <p>11 I was needed.</p> <p>12 Q. Do you remember what year that was?</p> <p>13 A. 2009.</p> <p>14 Q. 2009. Besides the conversations -- well, let</p> <p>15 me step back.</p> <p>16 How often do you speak with Mr. Dyer or</p> <p>17 others in the intergovernmental affairs office about</p> <p>18 election crime-related issues?</p> <p>19 A. Rarely.</p> <p>20 Q. But you do remember these discrete instances</p> <p>21 since 2012?</p> <p>22 A. Discrete?</p> <p>23 Q. The instances you were describing, how many --</p> <p>24 let me back up.</p> <p>25 How many times, to the best of your</p>
<p style="text-align: right;">34</p> <p>1 Q. (BY MR. DUNBAR) I just wanted to make clear</p> <p>2 for the witness that I'm -- at this point, I'm just</p> <p>3 asking if you factually had conversations since June</p> <p>4 2012 with Mr. Dyer about election crime issues?</p> <p>5 A. Yes, sir. One of my duties is to provide</p> <p>6 testimony potentially to the Texas legislature if I'm</p> <p>7 summoned as a fact witness. I'm also asked by Mr. Dyer</p> <p>8 to provide occasionally the Election Code spreadsheets</p> <p>9 that we maintain in the special investigations unit that</p> <p>10 include our prosecutions and our charges pending. So I</p> <p>11 provide those to him as well.</p> <p>12 Q. And have you testified before the Texas</p> <p>13 legislature on election crime issues?</p> <p>14 A. No, sir.</p> <p>15 Q. Was there a time period when you thought you</p> <p>16 might had to testify?</p> <p>17 A. Yes. I -- I go over there to be a resource</p> <p>18 witness if they call upon me to. I was over at the</p> <p>19 legislature a couple of times last session.</p> <p>20 Q. But as I recall correctly, you were not a</p> <p>21 resource witness in the legislative debate leading up to</p> <p>22 the enactment of SB14. Is that correct?</p> <p>23 A. Which session?</p> <p>24 Q. This would be, what, 2011? Well, let me step</p> <p>25 back.</p>	<p style="text-align: right;">36</p> <p>1 recollection, have you spoken with Mr. Dyer about</p> <p>2 election crime since June 2012?</p> <p>3 A. I believe I could have easily been asked</p> <p>4 perhaps a half a dozen times for those spreadsheets.</p> <p>5 Q. And do you recall how many times you might have</p> <p>6 had discussions with him about possibly being a</p> <p>7 witness -- a resource witness in front of the Texas</p> <p>8 legislature on election crime issues?</p> <p>9 A. Maybe once or twice.</p> <p>10 Q. And do you recall when that was?</p> <p>11 A. No, sir.</p> <p>12 Q. Does your unit -- and by "unit" I mean SIU --</p> <p>13 receive any guidance from the Attorney General or the</p> <p>14 Deputy Attorney General on matters relating to</p> <p>15 investigations of election crimes?</p> <p>16 A. No, sir.</p> <p>17 Q. So it's more of a decentralized model in terms</p> <p>18 of which types of crimes to concentrate your</p> <p>19 investigative resources on? Do you make those decisions</p> <p>20 ultimately?</p> <p>21 A. I wouldn't say it's decentralized in the fact</p> <p>22 that we are all geographically located in the same</p> <p>23 location. I would say that it is a consensus of myself,</p> <p>24 the captain, lieutenant, and potentially even my deputy</p> <p>25 director and director, as to which cases we devote the</p>

MAJOR FORREST MITCHELL

8/12/2014

12 (Pages 45 to 48)

<p style="text-align: right;">45</p> <p>1 want to say, about 300,000 a year. And then</p> <p>2 additionally I have three positions that are funded by</p> <p>3 the West Texas High Intensity Drug Task Force out in</p> <p>4 El Paso. That includes two money laundering</p> <p>5 investigators and one public integrity investigator.</p> <p>6 And those grants are combined. Let's say \$250,000.</p> <p>7 Q. The election -- the resources associated with</p> <p>8 the election team, then, would come exclusively through</p> <p>9 the legislative appropriations channel?</p> <p>10 A. Yes, sir. All the investigators who were</p> <p>11 assigned to the elections team are general revenue</p> <p>12 investigators.</p> <p>13 Q. Thank you.</p> <p>14 And has that always been the case with</p> <p>15 SIU?</p> <p>16 A. No, sir.</p> <p>17 Q. Can you explain?</p> <p>18 A. In 2005, I believe, the law enforcement</p> <p>19 division -- criminal investigations division received a</p> <p>20 grant from the governor's office. I believe it was a</p> <p>21 Byrnes grant. And we hired, I want to say, about 15</p> <p>22 positions under that grant. And those were dispersed</p> <p>23 between the various units of the criminal investigations</p> <p>24 law enforcement division. Money laundering team, sex</p> <p>25 offender apprehension fugitive team, cyber crimes and</p>	<p style="text-align: right;">47</p> <p>1 matter since June 2012?</p> <p>2 MR. CLAY: Object to form.</p> <p>3 To the extent you understand the question,</p> <p>4 you can answer.</p> <p>5 THE WITNESS: I would say since 2012</p> <p>6 the -- the financial resources available have increased.</p> <p>7 Q. (BY MR. DUNBAR) And approximately -- sitting</p> <p>8 here today, approximately how much of SIU's annual</p> <p>9 expenditure of resources would be related to</p> <p>10 investigations of election -- crimes or election</p> <p>11 violations?</p> <p>12 A. I don't have an exact number of what we spend</p> <p>13 each specific year. I could put it in the perspective</p> <p>14 of I have four investigators assigned to that team.</p> <p>15 Q. Uh-huh.</p> <p>16 A. In comparison to the law enforcement division</p> <p>17 having potentially 108 FTEs.</p> <p>18 Q. Uh-huh.</p> <p>19 A. So I --</p> <p>20 Q. Within SIU, I guess, if you had to -- strike</p> <p>21 that. Let me rephrase it.</p> <p>22 Within SIU, which of your investigative</p> <p>23 teams is currently the most resource intensive?</p> <p>24 A. I would say it's the money laundering team.</p> <p>25 Q. Money laundering. And where would the election</p>
<p style="text-align: right;">46</p> <p>1 SIU. You know, of SIU, some of those investigators were</p> <p>2 public integrity, elections, fraud.</p> <p>3 Q. And what is a Byrnes grant?</p> <p>4 A. It's just a particular type of grant -- I think</p> <p>5 it's called the Ed Byrnes grant that law enforcement</p> <p>6 agencies in Texas can apply for through the governor's</p> <p>7 office to fund various criminal justice initiatives.</p> <p>8 Q. And am I correct that there was a time when at</p> <p>9 least part of SIU's functions were funded by a grant</p> <p>10 from the Department of Justice?</p> <p>11 A. Yes, sir. That is correct.</p> <p>12 Q. And what was the -- what was the nature of that</p> <p>13 funding arrangement? What did that -- what did that</p> <p>14 fund?</p> <p>15 A. Like I just testified to?</p> <p>16 Q. Uh-huh.</p> <p>17 A. It funded a number of positions within the law</p> <p>18 enforcement criminal investigations division.</p> <p>19 Q. I see.</p> <p>20 A. I believe it was about 12 to 15 positions.</p> <p>21 Q. And has that grant expired or run its course?</p> <p>22 A. Yes, sir. I believe that it was for 2005. And</p> <p>23 I think it expired in 2012.</p> <p>24 Q. Okay. Have general resources -- have resources</p> <p>25 expended by the SIU increased or decreased as a general</p>	<p style="text-align: right;">48</p> <p>1 team rank?</p> <p>2 MR. CLAY: Objection; asked and answered.</p> <p>3 Q. (BY MR. DUNBAR) You can answer.</p> <p>4 A. As I previously testified, it's on par with the</p> <p>5 public integrity team. Each of those teams have about</p> <p>6 three or four investigators. And if I could even</p> <p>7 further clarify.</p> <p>8 Q. Please.</p> <p>9 A. The resources depend on the actual year. We</p> <p>10 receive more referrals in a year which contain a primary</p> <p>11 and a general election than we do in the off years where</p> <p>12 we only have, perhaps, school district and municipal</p> <p>13 elections. So on even numbers of years, we tend to see</p> <p>14 more cases than we do on the odd number of years.</p> <p>15 Q. Right. And I guess that's -- that's what I'm</p> <p>16 trying to understand is that the -- I understand that</p> <p>17 the FTE resources or fixed costs you have to pay,</p> <p>18 employees, their salary, whatever benefits in any given</p> <p>19 year, in that sense there's a rough equality between the</p> <p>20 public integrity team and, say, the election team. I</p> <p>21 would assume there are other costs that might cause</p> <p>22 resource expenditures to fluctuate in any given year,</p> <p>23 that is your investigators have to spend money on travel</p> <p>24 or other costs that come up in an investigation that</p> <p>25 would affect the -- the resource expenditures in any</p>

MAJOR FORREST MITCHELL

8/12/2014

15 (Pages 57 to 60)

<p style="text-align: right;">57</p> <p>1 special investigations division, we characterize it as a</p> <p>2 case type. And the election violations is a case type.</p> <p>3 Q. Right.</p> <p>4 A. What --</p> <p>5 Q. I'm sorry. Go ahead.</p> <p>6 A. What was -- what probably -- I can speak to the</p> <p>7 manner and means by which we prepare it again, and that</p> <p>8 is that we queried our mainframe system and said, please</p> <p>9 identify all the OAG case numbers associated with</p> <p>10 election violation as a case type. We could then pull</p> <p>11 those case numbers and then look at the billable hours</p> <p>12 and the billable costs associated with each of those.</p> <p>13 Q. Great. That's helpful.</p> <p>14 And so all of the underlying information</p> <p>15 that's on this spreadsheet, the hours worked, the total</p> <p>16 hourly cost, direct expenses, that's all data that's</p> <p>17 maintained within -- within the SIU system corresponding</p> <p>18 to case number?</p> <p>19 A. We don't necessarily have our own SIU system.</p> <p>20 We have an overall OAG mainframe which contains</p> <p>21 case-related information as far as billable hours, case</p> <p>22 costs, salary of investigators, the salary of</p> <p>23 prosecutors, the costs associated with travel, the</p> <p>24 specific case numbers.</p> <p>25 Q. And that's my final question, I think, about</p>	<p style="text-align: right;">59</p> <p>1 dollar value associated with that that you recall?</p> <p>2 A. There are actually two amounts. One was an</p> <p>3 amount for the criminal prosecutions division --</p> <p>4 Q. Uh-huh.</p> <p>5 A. -- which is the division that maintains all --</p> <p>6 or has all of the criminal prosecutors who will be sworn</p> <p>7 in as DAs to prosecute cases, and then also the law</p> <p>8 enforcement description. So there are two amounts.</p> <p>9 Q. So your office, SIU, doesn't conduct</p> <p>10 prosecutions. Is that correct?</p> <p>11 A. Yes. We are only law enforcement personnel and</p> <p>12 support staff.</p> <p>13 Q. I'm sorry. Could you clarify that answer?</p> <p>14 A. The criminal prosecutions division has all the</p> <p>15 Assistant Attorney Generals who prosecute election</p> <p>16 violation cases. The law enforcement division is</p> <p>17 separate from that. We're still part of the Attorney</p> <p>18 General's office.</p> <p>19 Q. Uh-huh.</p> <p>20 A. But we are the investigator law enforcement</p> <p>21 arm. We have investigators and support staff such as</p> <p>22 auditors and analysts who help.</p> <p>23 Q. I want to switch topics a little bit and talk a</p> <p>24 little bit more about the nuts and bolts of what SIU</p> <p>25 does and how they've done it since 2012. Can you</p>
<p style="text-align: right;">58</p> <p>1 this -- about this chart. And then total -- total --</p> <p>2 there's a category, total hours worked. And I assume --</p> <p>3 strike that.</p> <p>4 There's a category, total hours worked,</p> <p>5 and then total hourly costs, and then a direct expenses</p> <p>6 category as well. What would direct expenses include?</p> <p>7 MR. CLAY: Objection; foundation.</p> <p>8 To the extent you know, you can answer.</p> <p>9 THE WITNESS: I'm not absolutely certain.</p> <p>10 Q. (BY MR. DUNBAR) Do you recall if you reviewed</p> <p>11 this chart before it was produced in the Section Five</p> <p>12 litigation?</p> <p>13 A. I don't -- I don't specifically recall this</p> <p>14 one.</p> <p>15 Q. And just so the record is clear, you're not</p> <p>16 aware of having seen an updated chart or version of this</p> <p>17 document since this was produced in 2012. Is that</p> <p>18 correct?</p> <p>19 A. What I testified to is that I believe that it's</p> <p>20 not exactly formatted like this. But we did do a new</p> <p>21 printout. I requested my administrative staff to</p> <p>22 request a printout of all election violation costs with</p> <p>23 the case numbers that we've identified. And that period</p> <p>24 goes from fiscal year 2001 to present.</p> <p>25 Q. And was there an aggregate -- was there a total</p>	<p style="text-align: right;">60</p> <p>1 describe to me how alleged Election Code violations get</p> <p>2 referred to SIU?</p> <p>3 A. Yes, sir, I can.</p> <p>4 Q. Thank you.</p> <p>5 A. There are a number of different ways they may</p> <p>6 be referred to the Attorney General's office. Probably</p> <p>7 the largest portion of cases are direct referrals from</p> <p>8 the elections division of the secretary of state's</p> <p>9 office. A portion of the cases could be direct</p> <p>10 referrals from a district or a county attorney in any of</p> <p>11 the jurisdictions in Texas. Or it could be a referral</p> <p>12 from another law enforcement agency such as a sheriff's</p> <p>13 department, the Texas rangers, FBI, any -- any type of</p> <p>14 organization, any kind of law enforcement organization.</p> <p>15 And then, finally, some of the referrals that we receive</p> <p>16 are from elections administrators themselves.</p> <p>17 Q. And when you say election administrators, those</p> <p>18 are the county officials or municipal officials involved</p> <p>19 with running the elections?</p> <p>20 A. Yes, sir. It depends on the jurisdiction</p> <p>21 whether or not they would be an elections administrator</p> <p>22 or the county clerk or the county tax</p> <p>23 assessor/collector.</p> <p>24 Q. And do I understand Texas law correctly that</p> <p>25 referrals could also come from voters directly in</p>

MAJOR FORREST MITCHELL

8/12/2014

16 (Pages 61 to 64)

<p style="text-align: right;">61</p> <p>1 circumstances where the election involves more than one</p> <p>2 county. Is that right?</p> <p>3 A. Yes, sir. In Chapter 273 of the Election Code,</p> <p>4 voters may sign an affidavit and submit those affidavits</p> <p>5 to a local county or district attorney for election</p> <p>6 misconduct that occurs in that specific jurisdiction, or</p> <p>7 they may submit it to the Texas Attorney General's</p> <p>8 office if it involves a multi-jurisdictional election.</p> <p>9 Q. And a voter could, without going through the</p> <p>10 affidavit route, could just directly contact the Texas</p> <p>11 Secretary of State's office, which I believe maintains</p> <p>12 an election hotline. Is that your understanding?</p> <p>13 A. Yes, sir. Voters can directly contact the</p> <p>14 elections division at the secretary of state's office.</p> <p>15 Q. And do you know what SOS does with those</p> <p>16 referrals?</p> <p>17 MR. CLAY: Objection; foundation. You can</p> <p>18 answer to the extent you know.</p> <p>19 THE WITNESS: I -- I don't know</p> <p>20 specifically.</p> <p>21 Q. (BY MR. DUNBAR) Do you know what standard the</p> <p>22 secretary of state's office applies in determining</p> <p>23 whether they should then refer that referral to your</p> <p>24 office?</p> <p>25 MR. CLAY: Same objection.</p>	<p style="text-align: right;">63</p> <p>1 Q. Does your -- does SIU ever receive direct</p> <p>2 referrals from, say, public interest organizations or</p> <p>3 just concerned citizens?</p> <p>4 A. Citizens call the Attorney General's office</p> <p>5 every day about a wide variety of topics, including</p> <p>6 Election Code violations. It is our practice at the</p> <p>7 AG's office and the law enforcement division that if</p> <p>8 someone calls to complain about election violation, that</p> <p>9 we direct them to the secretary of state's office, the</p> <p>10 election hotline, so they can send it there. We advise</p> <p>11 the callers or the groups, if it was a group, that if</p> <p>12 the SOS determines that a potential criminal violation</p> <p>13 has occurred, that they would refer it to us. But we do</p> <p>14 not initiate investigations based off of a voter calling</p> <p>15 our office or sending us a letter.</p> <p>16 Q. Right. And do those calls typically go</p> <p>17 directly to your unit, SIU, or are they -- is there some</p> <p>18 general Attorney General's contact number that generally</p> <p>19 deals with those types of calls?</p> <p>20 A. My understanding of the organization, we do</p> <p>21 have a public information assistance division that</p> <p>22 answers calls as -- you know, from citizens and</p> <p>23 constituents and other agencies. The law enforcement</p> <p>24 division also has a -- a liaison who answers calls, who</p> <p>25 may be forwarding calls from our PIA. His name is</p>
<p style="text-align: right;">62</p> <p>1 THE WITNESS: It's my understanding that</p> <p>2 the only thing they would refer to our office is</p> <p>3 something that they believe that there's a potential of</p> <p>4 a criminal offense that occurred.</p> <p>5 Q. (BY MR. DUNBAR) Can legislatures -- excuse</p> <p>6 me -- legislators make referrals directly --</p> <p>7 A. No.</p> <p>8 Q. -- to your office?</p> <p>9 A. No, sir.</p> <p>10 Q. If a legislator wanted to make a referral, how</p> <p>11 would he or she go about doing it?</p> <p>12 MR. CLAY: Objection; form, foundation.</p> <p>13 You can answer to the extent you know.</p> <p>14 THE WITNESS: To your hypothetical</p> <p>15 question, I would suggest that a legislature could</p> <p>16 contact either the SOS and put those witnesses that they</p> <p>17 may have in contact with the SOS. Or they may contact</p> <p>18 their local county and district attorney and do the same</p> <p>19 thing. Let those witnesses provide information about</p> <p>20 the alleged misconduct.</p> <p>21 Q. (BY MR. DUNBAR) And, again, in the time period</p> <p>22 since June 2012, are you aware of any instances in which</p> <p>23 a legislator has made a referral through either of those</p> <p>24 routes?</p> <p>25 A. No, sir.</p>	<p style="text-align: right;">64</p> <p>1 Captain Greg Lucas (phonetic).</p> <p>2 Q. Thank you.</p> <p>3 So it would be fair to say that there are</p> <p>4 a number of ways in which various individuals can make</p> <p>5 election crime violations known to the Attorney</p> <p>6 General's office and to SIU in particular. Is that</p> <p>7 right?</p> <p>8 A. They could -- they could make them known.</p> <p>9 Correct.</p> <p>10 Q. There are a number of referral routes both</p> <p>11 through the -- through the secretary of state's office</p> <p>12 and then also direct referrals. Is that correct?</p> <p>13 A. The only direct referrals that we would accept</p> <p>14 would be direct referrals from the secretary of state's</p> <p>15 office, a law enforcement agency, a local district or</p> <p>16 county attorney, or a local elections administrator.</p> <p>17 THE REPORTER: A local?</p> <p>18 THE WITNESS: Elections administrator.</p> <p>19 Q. (BY MR. DUNBAR) That's a helpful summary.</p> <p>20 Thank you.</p> <p>21 But just to make sure I understand,</p> <p>22 voters, in certain circumstances, assuming that they</p> <p>23 follow the procedures laid out in 273, can also make</p> <p>24 those referrals as well. Is that right?</p> <p>25 A. We would direct -- if a voter attempted to do</p>

MAJOR FORREST MITCHELL

8/12/2014

20 (Pages 77 to 80)

<p style="text-align: right;">77</p> <p>1 Grand Jury preliminary hearings and at trial. So our</p> <p>2 investigators could be involved from the very beginning</p> <p>3 of the case to the conclusion of the case, which would</p> <p>4 be a criminal trial.</p> <p>5 Q. And I believe you testified in the Section Five</p> <p>6 case that OAG has the statutory authority to investigate</p> <p>7 Election Code violations on its own. But its policy is</p> <p>8 not to do so. Is that an accurate statement of your</p> <p>9 testimony?</p> <p>10 A. We prefer to work with local jurisdictions</p> <p>11 whenever and wherever possible.</p> <p>12 Q. But -- so the answer -- you -- OAG does have</p> <p>13 the statutory authority to investigate on its own?</p> <p>14 A. Under Chapter 273 of the Texas Elections Code,</p> <p>15 if you're talking about a multi-jurisdictional justice</p> <p>16 election, the OAG has authority to prosecute those</p> <p>17 cases. And then we also have the ability to prosecute</p> <p>18 those cases that are referred to our office by the</p> <p>19 secretary of state's office.</p> <p>20 Q. But to be clear, it would have the statutory</p> <p>21 authority to investigate those multi-jurisdiction cases</p> <p>22 as well, then. Is that correct?</p> <p>23 A. Yes, sir. Investigate and prosecute, yeah.</p> <p>24 Q. And that's without a referral from anyone?</p> <p>25 A. Statutorily or policy?</p>	<p style="text-align: right;">79</p> <p>1 General's office about why it's a referral-driven</p> <p>2 policy?</p> <p>3 A. I would say, yes, I have had conversations</p> <p>4 about that with my staff. And it would be to say</p> <p>5 that -- I mean, it would be speculation on my part, but</p> <p>6 it would be to say that the reason we do a referral is</p> <p>7 that you can't have an election without somebody being</p> <p>8 upset and everybody complains about the results of</p> <p>9 elections, typically the losers. We have to be</p> <p>10 referral-driven because there's just so much out there</p> <p>11 that people are upset about as far as elections go, but</p> <p>12 we can only focus on the ones that are referred to our</p> <p>13 office.</p> <p>14 Q. So at bottom, then, that would be kind of a</p> <p>15 resource question?</p> <p>16 A. Yeah.</p> <p>17 Q. A resource question?</p> <p>18 A. A resource question.</p> <p>19 Q. I think that's all I have on that question. I</p> <p>20 was going to turn to start working through some of those</p> <p>21 spreadsheet issues which may take a while. I don't know</p> <p>22 if now -- if we want to keep going, that's fine with me,</p> <p>23 but otherwise we can take a little break.</p> <p>24 MR. CLAY: Just to clear up the record,</p> <p>25 since we kind of modified Exhibit 3, I'm going to go</p>
<p style="text-align: right;">78</p> <p>1 Q. Statutorily.</p> <p>2 A. 2273 -- I'm sorry. I don't have it in front of</p> <p>3 me right now, for sure, but if it were referred to our</p> <p>4 office and it involved a multi-jurisdictional election,</p> <p>5 I believe our office would have the authority to do --</p> <p>6 investigate it and prosecute it.</p> <p>7 Q. And I wanted to ask you just slightly -- that</p> <p>8 answer is helpful. I wanted to ask you just a slightly</p> <p>9 different question, which is just if OAG became aware of</p> <p>10 potential election crimes somewhere in the state that</p> <p>11 involved multiple jurisdictions, as a statutory matter,</p> <p>12 the office could investigate and then prosecute.</p> <p>13 Correct?</p> <p>14 A. As a statutory matter, I believe so. Yes.</p> <p>15 Q. And then as a policy matter, I understand your</p> <p>16 prior testimony -- and your testimony today to be that's</p> <p>17 not what OAG does. Is that correct?</p> <p>18 A. We are a referral-driven agency.</p> <p>19 Q. And can you explain to me what the policy</p> <p>20 rationale is behind being referral driven?</p> <p>21 MR. CLAY: Objection; foundation, form.</p> <p>22 THE WITNESS: It would just be speculation</p> <p>23 on my part.</p> <p>24 Q. (BY MR. DUNBAR) So you haven't had</p> <p>25 conversations with anyone in the -- in the Attorney</p>	<p style="text-align: right;">80</p> <p>1 ahead and detach the --</p> <p>2 MR. DUNBAR: Please do.</p> <p>3 MR. CLAY: Okay. Just for her purposes.</p> <p>4 (Exhibits No. 4 and 5 marked)</p> <p>5 Q. (BY MR. DUNBAR) I've handed you what would</p> <p>6 have been labeled Exhibits 4 and 5. One of them we only</p> <p>7 need to talk briefly about, which is -- take a look at</p> <p>8 Exhibit 5 first. You've testified that you -- that you</p> <p>9 recall your deposition in the Section Five litigation.</p> <p>10 My question is, do you recall what -- and you were asked</p> <p>11 questions about the spreadsheet that I believe you</p> <p>12 referenced earlier in your testimony in that deposition.</p> <p>13 Is that correct?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And do you recall the date that the spreadsheet</p> <p>16 that was used in your June 2012 interview was last</p> <p>17 updated?</p> <p>18 A. Would you repeat that one more time?</p> <p>19 Q. Sure.</p> <p>20 You were deposed in June of 2012. Do you</p> <p>21 recall the version of the spreadsheet that you were</p> <p>22 asked questions about during that deposition?</p> <p>23 A. No, not specifically.</p> <p>24 MR. DUNBAR: And, counsel, this goes to</p> <p>25 our agreement about kind of focusing on post Major --</p>

MAJOR FORREST MITCHELL

8/12/2014

21 (Pages 81 to 84)

<p style="text-align: right;">81</p> <p>1 developments only since Major Mitchell's last 2 deposition. It's our understanding, for the record, 3 that what is Exhibit 5 was the version that was used, 4 which is dated March 12th, 2012. So although the 5 agreement is to talk only about developments since the 6 June deposition, since the June deposition was based on 7 a spreadsheet reflecting information from March of 2012, 8 I believe there are a few cases that fall within the 9 window between March 2012 and June of 2012 that I may be 10 asking questions about.</p> <p>11 MR. CLAY: Okay. And that's fine so long 12 as -- you know, obviously subject to the law enforcement 13 privilege and other applicable privileges. I'm not 14 going to object to --</p> <p>15 MR. DUNBAR: Right. I understand those 16 discussions may be coming, but --</p> <p>17 MR. CLAY: There's a three-month period 18 here.</p> <p>19 MR. DUNBAR: There's -- as I understand 20 it, there is a three-month discrepancy and I just want 21 to make sure nothing falls through the cracks. So we 22 can set Exhibit 5 aside for the time being.</p> <p>23 MR. CLAY: You represented that to be the 24 case. I don't know whether it is the case or not, but 25 I'm also -- it's fine with me if you want to --</p>	<p style="text-align: right;">83</p> <p>1 later and go through and talk about those -- any changes 2 that have occurred. But for the time being, my 3 questions will be obviously focused on this spreadsheet, 4 which is dated February 18th, 2014.</p> <p>5 MR. CLAY: And, again, I'm just going to 6 preface all this with, you know, our understanding of 7 the court's order -- and I've got them here if we need 8 to discuss them -- is, for the most part, these 9 documents speak for themselves and so the testimony is 10 going to be more about the administrative and the 11 collection and maintenance of this documents and not 12 delve too much into the particular details of the 13 individual cases.</p> <p>14 MR. DUNBAR: I mean, I appreciate you 15 stating that for the record, but it may be easier to 16 just have the discussions as we get into the questions 17 about where the line is drawn. Our understanding -- our 18 understanding of the court's order is that, you know, 19 she granted our motion to compel.</p> <p>20 To the extent you think there is a law 21 enforcement privilege issue, I would ask certainly that 22 you could raise it. But for many of the things I'm 23 going to be asking, I believe these -- these are topics 24 that Major Mitchell testified about in the Section Five 25 case in open court. Similar level -- I will be asking</p>
<p style="text-align: right;">82</p> <p>1 MR. DUNBAR: That's my -- that's my 2 understanding.</p> <p>3 MR. CLAY: That's fine.</p> <p>4 MR. DUNBAR: If it turns out to be 5 different, we could then maybe modify the agreement.</p> <p>6 MR. CLAY: All right. I have no objection 7 to you talking about, you know, March on versus June on. 8 No problem.</p> <p>9 MR. DUNBAR: Okay. I just wanted the 10 record to be clear on that.</p> <p>11 Q. (BY MR. DUNBAR) Okay. So if you turn to 12 Exhibit 4, can you tell me what this document is?</p> <p>13 A. This document contains spreadsheets maintained 14 by the special investigations unit which talk about 15 investigation referrals that are received by this 16 office, prosecutions which are resolved, as well as 17 charges which are currently pending from OAG 18 investigations or prosecutions.</p> <p>19 Q. And so the record is clear about what I'm 20 doing, I understand that an updated version of the 21 spreadsheet was -- came in the production last night 22 from April of 2014. I'm going to ask you questions 23 about this -- about the spreadsheet that's dated 24 February 18th, 2014, and then I think there are only a 25 few minor differences. We may pull that document in</p>	<p style="text-align: right;">84</p> <p>1 questions that I think are a similar level of generality 2 as to what Major Mitchell testified previously.</p> <p>3 MR. CLAY: Okay. And I -- I just want to 4 be clear that -- I mean, I'm also going upon the amended 5 notice that you guys served on us, on the Attorney 6 General's office, and it refers specifically to those 7 matters ordered by the court on July 24, 2014. And so, 8 you know, my understanding -- I've got -- again, I've 9 got the order here.</p> <p>10 My understanding of what the court ordered 11 was the maintenance of these documents and sort of 12 the -- or the maintenance and the -- the maintenance, 13 generation, and things of that nature and -- and not 14 actually -- I mean, I think she actually uses the 15 words -- you know, these are documents. They're data. 16 They kind of speak for themselves. So to the extent 17 that we're going to get into particular details about 18 particular cases, you know, I may be objecting a lot --</p> <p>19 MR. DUNBAR: Okay.</p> <p>20 MR. CLAY: -- just based upon the scope 21 and also the law enforcement privilege.</p> <p>22 MR. DUNBAR: Well, we disagree with your 23 reading of the opinion and don't -- order and don't want 24 to spend a lot of time of Major Mitchell's time arguing 25 among lawyers here. For the record, I will say that to</p>

MAJOR FORREST MITCHELL

8/12/2014

22 (Pages 85 to 88)

<p style="text-align: right;">85</p> <p>1 the extent there's a topic that you invoke a law</p> <p>2 enforcement privilege on, you know, I think we'll be</p> <p>3 taking the position that if that privilege is enforced,</p> <p>4 then that topic is off limits for all parties with</p> <p>5 respect to any evidence that might come in. If we're</p> <p>6 not allowed to ask questions about things, we don't</p> <p>7 think the privilege should be both kind of a sword and a</p> <p>8 shield.</p> <p>9 The second thing I'll say about that is</p> <p>10 that, again, I'm going to be asking questions that I</p> <p>11 think are at the level of generality that Major Mitchell</p> <p>12 testified about in the Section Five case, in both his</p> <p>13 deposition and his testimony. If your position is</p> <p>14 you've adopted a more expansive view with a law</p> <p>15 enforcement privilege since that time, that's fine. But</p> <p>16 I would also ask that in making your objections, if you</p> <p>17 could clarify whether your objection is based on what</p> <p>18 you think the law enforcement privilege actually</p> <p>19 protects versus what you think you -- you don't have to</p> <p>20 produce just because of another dispute -- discovery</p> <p>21 dispute you're having with DOJ. If you could separate</p> <p>22 those objections, I think that would be helpful in</p> <p>23 thinking about this going forward.</p> <p>24 MR. CLAY: Sure.</p> <p>25 And just to be clear, it's not -- and I do</p>	<p style="text-align: right;">87</p> <p>1 MR. CLAY: I mean, I just want to be</p> <p>2 clear. I mean, the judge clearly said, you know, what's</p> <p>3 good for one side is good for the other. So I don't</p> <p>4 think that the scope of this deposition is going to</p> <p>5 be -- is any larger than what the scope of the</p> <p>6 deposition that we were granted with respect to DOJ is.</p> <p>7 MR. DUNBAR: And you made that specific</p> <p>8 request --</p> <p>9 MR. CLAY: Okay.</p> <p>10 MR. DUNBAR: -- which she -- she rejected.</p> <p>11 MR. CLAY: Well, if we need to take it up</p> <p>12 with the court, then we will.</p> <p>13 MR. DUNBAR: We'll take it up with the</p> <p>14 court. But again, to the extent anything is off limits</p> <p>15 here, at a minimum we'll be taking the position that</p> <p>16 it's off limits for you guys throughout your case in</p> <p>17 chief.</p> <p>18 Q. (BY MR. DUNBAR) So with that in mind -- sorry</p> <p>19 for that, Major Mitchell.</p> <p>20 MS. CLARK: Kelly, can I jump in? This is</p> <p>21 Jennifer Clark. Just for the help of those of us on the</p> <p>22 phone, when y'all are talking about exhibits, if you</p> <p>23 could refer to Bates number, it would be much</p> <p>24 appreciated. Thank you.</p> <p>25 MR. DUNBAR: Certainly.</p>
<p style="text-align: right;">86</p> <p>1 want to get on with the testimony, but there are kind of</p> <p>2 two lines of objections and it isn't based upon a</p> <p>3 dispute with the DOJ. It's based upon both the language</p> <p>4 of your notice and -- which talks about the July 24th</p> <p>5 court order -- and the language of that order that I'm</p> <p>6 relying on. And we're not producing Major Mitchell for</p> <p>7 anything that is not contained within the four corners</p> <p>8 of this notice or what the judge said on July 24th. And</p> <p>9 so --</p> <p>10 MR. DUNBAR: Right. And you made it --</p> <p>11 MR. CLAY: -- he won't be testifying about</p> <p>12 that.</p> <p>13 MR. DUNBAR: You made a specific request</p> <p>14 for the judge to clarify that his deposition would be</p> <p>15 limited in the way of DOJ, and she -- she rejected that.</p> <p>16 She said that to the extent there are law enforcement</p> <p>17 privileges those can be dealt with in the ordinary</p> <p>18 course. But you made the specific request after the</p> <p>19 judge orally stated she was granting our motion. So we</p> <p>20 can disagree about that and go through this deposition</p> <p>21 and then take that up with the judge and then maybe have</p> <p>22 to go back and revisit that, so --</p> <p>23 MR. CLAY: Okay.</p> <p>24 MR. DUNBAR: But that's fine. We'll just</p> <p>25 ask the questions.</p>	<p style="text-align: right;">88</p> <p>1 Q. (BY MR. DUNBAR) We are now referring to</p> <p>2 Exhibit 4, which I've -- which is Texas -- Texas</p> <p>3 IR000232 all the way through Texas IR000261. And</p> <p>4 apologies, Major Mitchell, if I asked you this question.</p> <p>5 It may have gotten lost in Reed and I's soliloquies, but</p> <p>6 do you -- could you tell me what this document is again?</p> <p>7 A. Yes, sir. This document appears to be the</p> <p>8 spreadsheets that are maintained by the special</p> <p>9 investigations unit which document the Election Code</p> <p>10 referrals received by our office, the charges which are</p> <p>11 currently pending on Election Code investigations or</p> <p>12 prosecutions that our office is involved in, and then</p> <p>13 prosecutions which have been resolved.</p> <p>14 Q. Are you the author of this document?</p> <p>15 A. I used to be.</p> <p>16 Q. When did you stop authoring this document?</p> <p>17 A. All right. I passed the duty to the captain of</p> <p>18 the special investigations unit sometime earlier this</p> <p>19 year.</p> <p>20 Q. Were you the author -- did you or the captain</p> <p>21 have the responsibilities for the February 18th, 2014</p> <p>22 version?</p> <p>23 A. Yes, sir.</p> <p>24 Q. I'm sorry. Which of the two?</p> <p>25 A. I believe it was mine. I believe I was still</p>

MAJOR FORREST MITCHELL

8/12/2014

23 (Pages 89 to 92)

<p style="text-align: right;">89</p> <p>1 doing it at the time.</p> <p>2 Q. So at least with respect to this document, you</p> <p>3 believe it was you?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And can you tell me why you keep track of this</p> <p>6 information?</p> <p>7 A. Yes, sir. We maintain this spreadsheet for the</p> <p>8 purposes of keeping track of all Election Code</p> <p>9 investigations and prosecutions and this document is in</p> <p>10 a format which potentially could be released to the</p> <p>11 public or contains information which is obtained through</p> <p>12 other means such as getting a copy of an indictment, or</p> <p>13 getting a copy of a judgment in a sentence.</p> <p>14 Q. Right. And I believe you testified in the</p> <p>15 Section Five case that -- as you've alluded to here,</p> <p>16 that one of the reasons this document was created would</p> <p>17 be able to present public information that wouldn't</p> <p>18 implicate law enforcement privileges. Is that correct?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Did someone ask you to keep track of this</p> <p>21 information?</p> <p>22 A. Yes, sir. We created this spreadsheet at the</p> <p>23 instruction of former Deputy Assistant Attorney General</p> <p>24 Eric Nichols.</p> <p>25 Q. And when was that?</p>	<p style="text-align: right;">91</p> <p>1 Eric is an attorney. So to the extent that your -- your</p> <p>2 discussions included any legal analysis or legal</p> <p>3 discussion, you're directed not to answer.</p> <p>4 THE WITNESS: No, sir.</p> <p>5 Q. (BY MR. DUNBAR) And how frequently is the</p> <p>6 spreadsheet updated?</p> <p>7 A. As frequently as possible. It may go a matter</p> <p>8 of months before we have any kind of change in the</p> <p>9 prosecutions resolved or change in the number of cases</p> <p>10 that are currently charged. Referrals may -- may be</p> <p>11 updated more regularly because we are always getting</p> <p>12 referrals. So that may be monthly or every two months.</p> <p>13 But we could go three or four months without any changes</p> <p>14 to the criminal prosecutions.</p> <p>15 Q. Now, I believe the version that I was provided</p> <p>16 of the spreadsheet I was provided last night was April</p> <p>17 of 2014. I'm not sure of the precise date. Are you</p> <p>18 aware of whether that's the most recent version of the</p> <p>19 spreadsheet?</p> <p>20 A. It probably is not, because I know that we</p> <p>21 recently obtained some convictions and then we recently</p> <p>22 charged some new suspects.</p> <p>23 MR. DUNBAR: Okay. To the extent there is</p> <p>24 a more recent version one than that, Reed, I renew my</p> <p>25 request for that. I'm not sure if there is. And I may</p>
<p style="text-align: right;">90</p> <p>1 A. I apologize. I would say somewhere around</p> <p>2 2008 maybe.</p> <p>3 Q. And are similar spreadsheets kept for other</p> <p>4 categories of what we -- violations that SIU</p> <p>5 investigates?</p> <p>6 A. Yes, sir.</p> <p>7 Q. For each of the other teams?</p> <p>8 A. No, sir. I wouldn't say for each of the other</p> <p>9 teams, but we do keep records of that -- of public</p> <p>10 integrity cases that we investigate, as well as money</p> <p>11 laundering cases we investigate. We keep spreadsheets</p> <p>12 as well.</p> <p>13 Q. And were those -- was the request to keep those</p> <p>14 spreadsheets also made by Mr. Nichols?</p> <p>15 A. No, sir.</p> <p>16 Q. And what was Mr. Nichols' position again?</p> <p>17 A. He was the deputy attorney general for criminal</p> <p>18 justice.</p> <p>19 Q. And you were in -- you were in -- you were</p> <p>20 leading SIU at the time that request was made. Is that</p> <p>21 correct?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And did you have conversations with Mr. Nichols</p> <p>24 about why you were keeping the spreadsheet?</p> <p>25 MR. CLAY: I'll object to the extent that</p>	<p style="text-align: right;">92</p> <p>1 be getting the date wrong on the spreadsheet. I'll take</p> <p>2 a look at that.</p> <p>3 Q. (BY MR. DUNBAR) You testified that you created</p> <p>4 the spreadsheet in part so that you could have -- could</p> <p>5 have a document that you would be able to hand people</p> <p>6 publically. Has -- has anyone in the Texas legislature</p> <p>7 asked you for this spreadsheet since June 2012?</p> <p>8 A. No one has specifically asked me for this</p> <p>9 document.</p> <p>10 Q. Are you aware of anyone making any request to</p> <p>11 SIU generally for this document, from the legislature,</p> <p>12 since June 2012?</p> <p>13 A. I have been requested by our intergovernmental</p> <p>14 relations division to provide these spreadsheets, and</p> <p>15 they advised me it was a legislative request.</p> <p>16 Q. And do you know which legislatures were making</p> <p>17 the request?</p> <p>18 A. I don't know all who have made the requests,</p> <p>19 and I don't know if it was given to one legislature or</p> <p>20 five legislatures. I just don't know.</p> <p>21 Q. Do you know the names of any legislators that</p> <p>22 made such a request?</p> <p>23 A. I know Anchia has requested this.</p> <p>24 THE REPORTER: You know who?</p> <p>25 THE WITNESS: Anchia.</p>

MAJOR FORREST MITCHELL

8/12/2014

24 (Pages 93 to 96)

<p style="text-align: right;">93</p> <p>1 MR. CLAY: A-N-C-H-I-A.</p> <p>2 Q. (BY MR. DUNBAR) Is that the only person you</p> <p>3 recall?</p> <p>4 A. Off the top of my head, yes, sir.</p> <p>5 Q. Okay. Has anyone in the governor's office</p> <p>6 asked you for this -- asked you, you meaning SIU, for</p> <p>7 the spreadsheet since June 2012?</p> <p>8 A. No, sir. Not that I'm aware of.</p> <p>9 Q. What about anyone outside OAG making requests</p> <p>10 for this spreadsheet since June 2012?</p> <p>11 A. I believe our communications division has</p> <p>12 received requests from newspapers and -- and reporters.</p> <p>13 Q. And so this -- this spreadsheet -- everything</p> <p>14 we're seeing here would be produced in response to such</p> <p>15 request?</p> <p>16 A. Correct.</p> <p>17 Q. And I believe you testified this is divided up</p> <p>18 into three parts: Charges pending, referrals, and</p> <p>19 resolved prosecutions. Is that right?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And have you all -- has the spreadsheet always</p> <p>22 been divided up in that matter, that is with those three</p> <p>23 sections?</p> <p>24 A. Yes, sir.</p> <p>25 Q. So looking at the -- asking just some very</p>	<p style="text-align: right;">95</p> <p>1 general election, a municipal election, a special</p> <p>2 election, a constitutional election, the cause number of</p> <p>3 any cases that were filed, the actual charges and the</p> <p>4 number of counts for each of the charges, when those</p> <p>5 were charged and what the relevant -- either Election</p> <p>6 Code or Penal Code statutes are.</p> <p>7 Q. And with respect to the charges column, do</p> <p>8 you -- do you -- and by "you" I mean yourself or anyone</p> <p>9 with SIU, keep track of who files the charges and where</p> <p>10 the charges are filed?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And is that in a separate document?</p> <p>13 A. Well, we have a -- we have a policy whenever we</p> <p>14 either receive a Grand Jury indictment or whether or not</p> <p>15 we've filed an affidavit to obtain a warrant for arrest,</p> <p>16 that the investigators provide the supervisors with a</p> <p>17 copy of that charging instrument. So that's a document</p> <p>18 that -- that is maintained by a special investigations</p> <p>19 unit, the indictment or the warrant. And that tells us</p> <p>20 what county it's arrested -- the person was arrested in</p> <p>21 or charged in. And it would also contain, generally,</p> <p>22 information about -- if it was a different county where</p> <p>23 the offense occurred versus where it was being charged,</p> <p>24 that would also be in there as well.</p> <p>25 Q. Thank you.</p>
<p style="text-align: right;">94</p> <p>1 general questions to make sure I understand the</p> <p>2 pending -- charges pending resolution tab, which for</p> <p>3 those on the phone is, again, Texas IR000232, these are</p> <p>4 pretty self-explanatory, but can you tell me what each</p> <p>5 of the column titles refers to?</p> <p>6 A. On this chart, which is titled Charges Pending</p> <p>7 Resolution --</p> <p>8 Q. Yes, sir.</p> <p>9 A. -- the first column would be county. And that</p> <p>10 is going to be the county of where the alleged offense</p> <p>11 occurred. And sometimes, pursuant to the Election Code,</p> <p>12 the county where the offense occurred may not be</p> <p>13 actually the county where we charge the criminal</p> <p>14 offense. We have the statutory authority to move those</p> <p>15 criminal prosecutions between counties. So it could be</p> <p>16 the county where the offense occurred and then the</p> <p>17 county where it's being prosecuted.</p> <p>18 The second column is the defendant who was</p> <p>19 charged in the offense. The allegation is the</p> <p>20 allegation that was contained in the referrals</p> <p>21 spreadsheet, which is another document. And that would</p> <p>22 be what the allegation was made in the referral</p> <p>23 document, such as the letter from the secretary of</p> <p>24 state's office. The specific election involved, whether</p> <p>25 or not the year it was -- occurred, whether it was a</p>	<p style="text-align: right;">96</p> <p>1 So if I'm counting this right, at least as</p> <p>2 of February 18th, 2014, there were eight pending cases.</p> <p>3 Is that right?</p> <p>4 A. Yes, sir. When this document was prepared,</p> <p>5 there were eight pending cases.</p> <p>6 Q. And can you tell me what the different types of</p> <p>7 charges pending against these eight people are?</p> <p>8 A. For instance, the first one is illegal voting,</p> <p>9 which is under Election Code Chapter 64.012.</p> <p>10 Q. Uh-huh.</p> <p>11 A. And the portion of that statute which is</p> <p>12 violated was voter impersonation. And then, for</p> <p>13 instance, the next one -- or -- the -- the -- going to</p> <p>14 the third entry.</p> <p>15 Q. Uh-huh.</p> <p>16 A. Montgomery County involving Goeddert. It was</p> <p>17 illegal voting, ineligible voter. So it was a voter who</p> <p>18 was not eligible to vote in that election because he</p> <p>19 wasn't a resident of that jurisdiction. But it also is</p> <p>20 Chapter 64 of the Election Code.</p> <p>21 Q. So what other categories, besides residence,</p> <p>22 what might be other types of reasons that a voter would</p> <p>23 be ineligible to vote such that would fall under that</p> <p>24 charge?</p> <p>25 A. If a voter is a convicted felon, they're not</p>

MAJOR FORREST MITCHELL

8/12/2014

25 (Pages 97 to 100)

<p style="text-align: right;">97</p> <p>1 eligible to vote in the election. If the voter is not a</p> <p>2 U.S. citizen, they're not eligible to vote in our</p> <p>3 elections.</p> <p>4 Q. I --</p> <p>5 A. And if the voter is already voted --</p> <p>6 Q. -- age --</p> <p>7 A. -- they're not -- yes. Age is another example.</p> <p>8 They must be over 18.</p> <p>9 Q. And so generally speaking, then, it looks like</p> <p>10 the eight -- the eight pending charges here encompass</p> <p>11 voter impersonation; ineligible voter; and ineligible</p> <p>12 voter, felon. Is that correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And looking at the dates -- and you can take a</p> <p>15 few minutes if it needs to -- how many of these cases</p> <p>16 were pending resolution when you were last deposed on</p> <p>17 June 5th, 2012?</p> <p>18 A. I would say all the bottom entry, which is</p> <p>19 Cameron County election offense.</p> <p>20 Q. And do you know why those charges are still</p> <p>21 pending?</p> <p>22 A. I'm sorry. Maybe I -- perhaps I misunderstood</p> <p>23 the question. That's the only one that -- that was</p> <p>24 subsequent to the last time I was deposed.</p> <p>25 Q. I'm sorry. And I'm going to get to that one in</p>	<p style="text-align: right;">99</p> <p>1 new pending charges case since the June 2012 deposition</p> <p>2 relates to the last entry. Is that correct?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. And can you provide any general</p> <p>5 background on that case?</p> <p>6 MR. CLAY: I'm going to go ahead and</p> <p>7 assert law enforcement privilege. To the extent it</p> <p>8 doesn't require you to divulge any sensitive law</p> <p>9 environment information, you can answer his question.</p> <p>10 THE WITNESS: I really can't provide you</p> <p>11 anything outside what's already on the spreadsheet right</p> <p>12 there.</p> <p>13 Q. (BY MR. DUNBAR) And so the spreadsheet shows</p> <p>14 in the Charges column that this was a one count of</p> <p>15 illegal voting, ineligible voter, felon. Am I reading</p> <p>16 that right? It looks like there might be a typo, but --</p> <p>17 A. Yes, sir, there's a typo. Yes, sir. That's</p> <p>18 the offense that's charged.</p> <p>19 Q. And what does it mean for a case generally to</p> <p>20 involve an ineligible voting felon?</p> <p>21 A. Under Texas law, a convicted felon may not vote</p> <p>22 until the completion -- the entire completion of their</p> <p>23 sentence. That means that they're either completely</p> <p>24 discharged by the Texas Department of Criminal Justice</p> <p>25 from any parole terms or that they've completed any</p>
<p style="text-align: right;">98</p> <p>1 one sec. I just wanted to ask one quick, cleanup</p> <p>2 question with respect to the chart. The cases where the</p> <p>3 charges are still pending and those charges were pending</p> <p>4 when you were last deposed, do you know why those</p> <p>5 charges are still pending?</p> <p>6 A. Yes, sir. The first entry, I believe her</p> <p>7 name is -- the defendant is Mary Comparin. And she has</p> <p>8 been determined to be incompetent and has not been</p> <p>9 prosecuted for any violations.</p> <p>10 Q. And you testified about her in your last</p> <p>11 deposition and trial testimony. Is that correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. I believe you testified that she was someone</p> <p>14 who was voting in multiple elections. Is that right?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Or multiple times?</p> <p>17 A. Yes. I testified that she was using multiple</p> <p>18 identities, including one of her -- which was her</p> <p>19 deceased sister, to vote multiple times in elections.</p> <p>20 Q. And what -- what IDs was she using to vote in</p> <p>21 those different elections?</p> <p>22 A. I don't -- I would -- don't know specifically</p> <p>23 unless I looked at the combination form of each of those</p> <p>24 cases.</p> <p>25 Q. Okay. So I think we've established the only</p>	<p style="text-align: right;">100</p> <p>1 terms of probation that are issued by the court. So</p> <p>2 this charge would indicate that this person still voted</p> <p>3 while they were either on probation or parole.</p> <p>4 Q. So illegal voting, ineligible voter, felon, as</p> <p>5 a charge wouldn't encompass anything like in-person</p> <p>6 voter impersonation. Is that correct?</p> <p>7 A. You could -- you could have a circumstance</p> <p>8 where it's both counts --</p> <p>9 Q. Understood. Just this charge standing alone</p> <p>10 would not encompass in-vote -- or voting impersonation.</p> <p>11 Is that correct?</p> <p>12 A. I can't speak specifically to any facts of this</p> <p>13 case and whether or not voter impersonation was an</p> <p>14 issue. I -- this is the charge that we charged.</p> <p>15 Q. And under the -- under Texas law, under</p> <p>16 64.012, ineligible -- ineligible person voting is a</p> <p>17 separate violation from voter impersonation. Is that</p> <p>18 right?</p> <p>19 A. Yes, sir, it is.</p> <p>20 Q. And your -- your testimony today is you're just</p> <p>21 not aware whether this case involves any allegations of</p> <p>22 the in-voter -- voter impersonation -- excuse me --</p> <p>23 in-person voter impersonation?</p> <p>24 A. If I could speak generally, many of the</p> <p>25 referrals that we receive from the secretary of state's</p>

MAJOR FORREST MITCHELL

8/12/2014

26 (Pages 101 to 104)

<p style="text-align: right;">101</p> <p>1 office or a DA's office could be global in nature where</p> <p>2 it says that there's a wide variety of misconduct that</p> <p>3 has occurred. And it may be specifically that it says</p> <p>4 illegal voting has occurred in this election. The</p> <p>5 referral document doesn't say whether that was one of</p> <p>6 the three or four categories of illegal voting. It may</p> <p>7 say specifically it was illegal voting by a felon. It</p> <p>8 may say -- it could be illegal voting, that people voted</p> <p>9 twice in an election. But in this specific instance,</p> <p>10 the allegation just says "illegal voting," so I don't</p> <p>11 know what type of illegal voting is -- it is.</p> <p>12 Q. With respect to the actual charges brought,</p> <p>13 however, those would not encompass allegations of --</p> <p>14 in-person voter impersonation. Correct?</p> <p>15 A. The only charges he was charged -- the suspect</p> <p>16 was charged for was being a felon and not being eligible</p> <p>17 to vote in the election.</p> <p>18 Q. And that type of voting crime -- that type of</p> <p>19 voting violation would not be something that would have</p> <p>20 been affected by SB14's photo identification</p> <p>21 requirements one way or the other. Is that correct?</p> <p>22 MR. CLAY: Objection; form, vagueness.</p> <p>23 Q. (BY MR. DUNBAR) You can answer.</p> <p>24 A. No. I don't believe so.</p> <p>25 Q. All right. I'd now like to skip to the end of</p>	<p style="text-align: right;">103</p> <p>1 investigations that occur in the State of Texas and</p> <p>2 other prosecutions that this office has no knowledge of</p> <p>3 That can be done at a local level, and it would not be</p> <p>4 encompassed in this document. We -- this only</p> <p>5 represents cases that either my investigators -- our</p> <p>6 investigators have been directly involved in, or whether</p> <p>7 or not OAG prosecutors have been directly involved in,</p> <p>8 or a combination thereof.</p> <p>9 Q. And -- and that raises a question. Are there</p> <p>10 ever circumstances in which SIU doesn't conduct an</p> <p>11 investigation of an Election -- Election Code violation,</p> <p>12 but just becomes involved at the prosecution stage</p> <p>13 perhaps with assisting local or state prosecutors?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And -- and how many instances -- how often does</p> <p>16 that occur?</p> <p>17 A. It's -- it's -- I would say very few. Most of</p> <p>18 them, the investigators are involved in from the very</p> <p>19 beginning. But there have been a couple of cases where</p> <p>20 the local DA has just requested prosecutorial</p> <p>21 assistance.</p> <p>22 Q. So that's -- just as -- by way of example, to</p> <p>23 help me understand when that might happen, a local</p> <p>24 prosecutor might learn of alleged Election Code</p> <p>25 violations, decide to investigate himself or herself,</p>
<p style="text-align: right;">102</p> <p>1 the spreadsheet -- which for those joining by phone is</p> <p>2 range -- would be the Prosecutions Resolved heading</p> <p>3 which starts at Texas IR000255 and proceeds through</p> <p>4 Texas IR00261 (sic).</p> <p>5 Are you there with me, Major Mitchell?</p> <p>6 A. Yes, sir, I am.</p> <p>7 Q. And what does this heading or tab reflect?</p> <p>8 A. This is the prosecution's resolve spreadsheet</p> <p>9 that the special investigation unit maintains of all the</p> <p>10 cases that have been resolved and had a case</p> <p>11 disposition.</p> <p>12 Q. And that's since 2005. Is that correct?</p> <p>13 A. So the first entry is a -- a 2005 case, yes,</p> <p>14 sir.</p> <p>15 Q. And does the universe of cases listed here</p> <p>16 cover only matters that have at one point been referred</p> <p>17 through your office? Or would it encompass any other</p> <p>18 prosecutions that you might -- that might not have been</p> <p>19 referred through your office -- by your office I mean</p> <p>20 SIU, I apologize -- that would not -- that you might</p> <p>21 have learned about subsequently?</p> <p>22 A. The Prosecutions Resolved spreadsheet that --</p> <p>23 that we maintain encompasses investigations that this</p> <p>24 office has been involved in or prosecutions that this</p> <p>25 office has been involved in. There are other</p>	<p style="text-align: right;">104</p> <p>1 decide to prosecute, and at the prosecution stage, reach</p> <p>2 out to SIU or OAG for assistance, and you might become</p> <p>3 involved. And that circumstance would be reflected on</p> <p>4 your spreadsheet?</p> <p>5 A. Correct. If I could expand a little bit</p> <p>6 further.</p> <p>7 Q. Please.</p> <p>8 A. Local law enforcement or federal law</p> <p>9 enforcement or state law enforcement could conduct an</p> <p>10 investigation, present the case to the DA's office, and</p> <p>11 the DA's office then ask for prosecutorial assistance.</p> <p>12 Q. What type of prosecutorial assistance would SIU</p> <p>13 provide in a general case?</p> <p>14 A. Our investigators could help our OAG</p> <p>15 prosecutors prepare a case for Grand Jury, presentation</p> <p>16 of the case to a Grand Jury by helping them serve</p> <p>17 witnesses with subpoenas, help them gather documents,</p> <p>18 certify copies of documents. Or do the same thing at</p> <p>19 the trial as well: Serving subpoenas, preparing,</p> <p>20 getting documents together.</p> <p>21 Q. And do the columns -- without having to go</p> <p>22 through all of the columns that are shown on the</p> <p>23 Prosecutions Resolved heading that we talked about with</p> <p>24 respect to charges pending, are the charges -- excuse</p> <p>25 me -- are the -- can you identify for me which columns</p>

MAJOR FORREST MITCHELL

8/12/2014

27 (Pages 105 to 108)

<p style="text-align: right;">105</p> <p>1 are different? Are there -- are there additional --</p> <p>2 well, let's just -- scratch all of that. Let's just</p> <p>3 work through the columns again.</p> <p>4 Can you tell me what each of the columns</p> <p>5 refers to? And to the extent it's the same information</p> <p>6 that you referred to in your -- with respect to the</p> <p>7 chargings pending, you can just let me know that.</p> <p>8 A. Yes, sir. It -- it is relatively the same as</p> <p>9 the charges pending. Again, it talks about the county,</p> <p>10 both where the offense occurred and maybe where it's</p> <p>11 prosecuted, the defendant, the allegation.</p> <p>12 Q. And again, the allegation, for purposes of this</p> <p>13 column, is drawn -- is also drawn from the initial</p> <p>14 referral documents?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Okay.</p> <p>17 A. And then it has all the cause numbers for all</p> <p>18 of the cases which are charged. A difference between</p> <p>19 that and the charges pending is that some -- we may</p> <p>20 accept a plea for just one charge instead of ten</p> <p>21 charges. And then the other difference is in the</p> <p>22 disposition, what the actual disposition of the case is.</p> <p>23 Was the person found guilty, was the person found not</p> <p>24 guilty, was there a plea agreement, was there deferred</p> <p>25 adjudication, or was there probation?</p>	<p style="text-align: right;">107</p> <p>1 subject you touched on a minute ago. It may be two</p> <p>2 different documents.</p> <p>3 MR. DUNBAR: Right. It may be a different</p> <p>4 version.</p> <p>5 Q. (BY MR. DUNBAR) So consistent with the rest of</p> <p>6 my deposition, I want to focus on the cases that were</p> <p>7 resolved, that came on to the Prosecutions Resolved</p> <p>8 spreadsheet since your last deposition. By my count</p> <p>9 that begins on the page which is Bates-labeled Texas</p> <p>10 I.R. 00259.</p> <p>11 A. Yes, sir.</p> <p>12 Q. So starting with Erica Perez, which the</p> <p>13 resolution date is 4/4/12, which would -- again, would</p> <p>14 have been a date after the March 2012 spreadsheet that,</p> <p>15 as I understand it, was used at your last deposition.</p> <p>16 Counting down from that, I get a total of 17 new</p> <p>17 resolved cases since your last deposition. Am I -- am I</p> <p>18 reading the -- your chart correctly?</p> <p>19 A. Including Perez?</p> <p>20 Q. Yes, sir.</p> <p>21 A. Okay. Yes, sir. You are correct.</p> <p>22 Q. As an aside, so that the record is clear on</p> <p>23 this, do you know when Texas held the first election for</p> <p>24 which SB14's photo identification requirements were in</p> <p>25 effect?</p>
<p style="text-align: right;">106</p> <p>1 Q. And what record -- what records did you rely on</p> <p>2 when you had these responsibilities to fill in that</p> <p>3 Disposition column?</p> <p>4 A. We have a standard procedure in our office that</p> <p>5 when a case is -- when we reach a disposition in a case,</p> <p>6 that the investigator needs to attain the -- the final</p> <p>7 documents in that case. So the investigator will obtain</p> <p>8 from the prosecutor or the district or county clerk the</p> <p>9 judgment or sentence, which may or may not include the</p> <p>10 probation, any kind of plea agreement or a pretrial</p> <p>11 diversion program, or a dismissal, or -- whatever the</p> <p>12 disposition documents are, the investigator needs to</p> <p>13 obtain these. And they provide it to myself or the</p> <p>14 captain, and then we use those documents specifically to</p> <p>15 prepare the spreadsheet.</p> <p>16 Q. Okay. Thank you.</p> <p>17 And do you know off the top of your head</p> <p>18 how many resolved cases are reflected on the</p> <p>19 spreadsheet? If you don't, I don't want to make you</p> <p>20 count. But I just didn't know if that's something you</p> <p>21 keep in the back of your head constantly.</p> <p>22 A. When I reviewed this last night, I counted 72.</p> <p>23 Q. Seventy-two. Yeah. I counted 74, but I may</p> <p>24 have miscounted. It was late last night, so --</p> <p>25 MR. CLAY: Well -- and also -- this is a</p>	<p style="text-align: right;">108</p> <p>1 A. The entire state or a jurisdiction within the</p> <p>2 state?</p> <p>3 Q. For the entire state.</p> <p>4 A. I would believe it would be the 2013 -- I'm</p> <p>5 sorry. I would believe it would be the primary</p> <p>6 elections this year.</p> <p>7 Q. Which were those, November of 2013?</p> <p>8 A. No, sir. Those would be in March of this year.</p> <p>9 Q. Okay. I had done some -- do you recall a</p> <p>10 constitutional amendment election in November of 2013?</p> <p>11 A. Yes, sir. I believe we did have a</p> <p>12 constitutional election that would have been in November</p> <p>13 of 2013.</p> <p>14 Q. Right. And if the SB14's photo ID requirements</p> <p>15 went into effect in July of 2013, they would have</p> <p>16 applied in that election. Correct?</p> <p>17 A. Yes, sir, I believe you're correct.</p> <p>18 Q. And so none of these 17 new cases on the</p> <p>19 Prosecutions Resolved involved conduct -- let me</p> <p>20 rephrase.</p> <p>21 Is it accurate to state that the only new</p> <p>22 17 resolved cases on this spreadsheet involve conduct</p> <p>23 from before when SB14's photo ID requirements were</p> <p>24 implemented? I'll give you some time to look at that</p> <p>25 just to make sure you're sure.</p>

MAJOR FORREST MITCHELL

8/12/2014

28 (Pages 109 to 112)

<p style="text-align: right;">109</p> <p>1 A. All of the elections that are listed here</p> <p>2 occurred previous to the implementation of SB14.</p> <p>3 Q. Thank you.</p> <p>4 And how many of these 17 cases resulted in</p> <p>5 a conviction or a guilty plea? I count eight. I just</p> <p>6 want to make sure you agree with my interpretation.</p> <p>7 A. Did you say a plea or a conviction?</p> <p>8 Q. How many of the cases resulted in either a</p> <p>9 conviction or a guilty plea?</p> <p>10 A. I'm sorry. I counted nine.</p> <p>11 Q. Oh, it's possible I miscounted.</p> <p>12 MR. CLAY: Are we looking at just the ones</p> <p>13 that have been resolved since --</p> <p>14 MR. DUNBAR: Yes, sir.</p> <p>15 MR. CLAY: -- March of 2012?</p> <p>16 MR. DUNBAR: From Erica Perez down.</p> <p>17 MR. CLAY: That's on 0259?</p> <p>18 MR. DUNBAR: Yeah. So, please, if I'm</p> <p>19 misreading the spreadsheet somehow --</p> <p>20 MR. CLAY: Well, the problem I see -- and</p> <p>21 I just noticed this a minute ago and am now putting it</p> <p>22 together -- is that there's two resolution dates</p> <p>23 embedded in here that appear to have occurred prior to</p> <p>24 his -- do you see the second and third line, the two</p> <p>25 Smiths. The resolution date seems to be a little bit</p>	<p style="text-align: right;">111</p> <p>1 Q. Yeah. And your explanation is reminding me</p> <p>2 that I had gone back. And if you look at the March of</p> <p>3 2012 spreadsheet that was used, these cases are not</p> <p>4 listed there. So this -- this 17 cases, as I understand</p> <p>5 it, would be 17 resolved cases, perhaps since your last</p> <p>6 deposition is an incorrect statement, but 17 resolved</p> <p>7 cases that you did not have the opportunity to testify</p> <p>8 about at your last deposition, if that makes sense?</p> <p>9 MR. CLAY: So maybe another way to put it</p> <p>10 would be -- and, obviously, I want to let you conduct</p> <p>11 the deposition.</p> <p>12 MR. DUNBAR: Sure.</p> <p>13 MR. CLAY: But another way to put it would</p> <p>14 be there's 17 new cases on the Prosecutions Resolved --</p> <p>15 or different cases on the Prosecutions Resolved list.</p> <p>16 Two of those appear to have been resolved prior to his</p> <p>17 last deposition, but were not on the list that was used</p> <p>18 at his last deposition.</p> <p>19 MR. DUNBAR: That's -- that's correct. I</p> <p>20 will go -- going forward, we'll use the 17 different</p> <p>21 cases formulation --</p> <p>22 MR. CLAY: Okay.</p> <p>23 MR. DUNBAR: -- to avoid confusion, and</p> <p>24 I --</p> <p>25 MR. CLAY: Does that make sense?</p>
<p style="text-align: right;">110</p> <p>1 out of order, if that makes sense.</p> <p>2 MR. DUNBAR: I'm sorry. I don't see the</p> <p>3 Smiths.</p> <p>4 MR. CLAY: This is 2011 -- this is 0260.</p> <p>5 THE WITNESS: Okay.</p> <p>6 MR. CLAY: So Ronald Marsh Smith and Ann</p> <p>7 Marie Marsh Smith. Do y'all see that -- those two</p> <p>8 lines?</p> <p>9 THE WITNESS: Yes, sir.</p> <p>10 MR. CLAY: The resolution date is in 2011.</p> <p>11 Do you see that, Kelly?</p> <p>12 MR. DUNBAR: I do see that. I guess would</p> <p>13 that be -- I guess I'll just ask Major Mitchell.</p> <p>14 Q. (BY MR. DUNBAR) Would that -- would that mean</p> <p>15 we should take those two cases out of the -- out of the</p> <p>16 calculation of cases resolved since you last testified?</p> <p>17 A. I should -- if I may expand upon this.</p> <p>18 Q. Please.</p> <p>19 A. We do not update the spreadsheet until we</p> <p>20 actually have a copy of the case disposition. So by</p> <p>21 this spreadsheet saying 3/23/11, it does not mean that</p> <p>22 we updated the spreadsheet on 3/23/11. Sometimes it</p> <p>23 takes the clerk's office, you know, a month to provide</p> <p>24 this to us or two months or sometimes it may go un --</p> <p>25 unnoticed for a while, so --</p>	<p style="text-align: right;">112</p> <p>1 MR. DUNBAR: Yes, it does.</p> <p>2 Q. (BY MR. DUNBAR) Does that make sense to you,</p> <p>3 Major Mitchell?</p> <p>4 A. Yes, sir, it does.</p> <p>5 Q. Okay. And I actually had some questions about</p> <p>6 how those got on there, but you may have already</p> <p>7 answered. But we'll get to them when we come back.</p> <p>8 So -- but there's maybe another basic</p> <p>9 numbering error on my end which is of these 17 different</p> <p>10 cases, figuring out how many resulted in a conviction or</p> <p>11 a guilty plea. And let me just recount that myself.</p> <p>12 Well, let's just walk down them, because I think I still</p> <p>13 get the same count. So for -- we'll come back to some</p> <p>14 of these a little more individually. Erica --</p> <p>15 Erica Perez is a not guilty during a bench trial.</p> <p>16 Correct?</p> <p>17 A. Correct, sir.</p> <p>18 Q. Richard (sic) Medrano, Sr. is a not guilty</p> <p>19 during a bench trial. Correct?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Gilda Hernandez is a guilty. Correct?</p> <p>22 A. Correct.</p> <p>23 Q. So that's our first guilty. The first Smith is</p> <p>24 a guilty. Is that correct?</p> <p>25 A. Yes, sir. Ronald Marsh pled guilty.</p>

MAJOR FORREST MITCHELL

8/12/2014

29 (Pages 113 to 116)

<p style="text-align: right;">113</p> <p>1 Q. Oh, sorry. I'm sorry. You're right. I was</p> <p>2 looking at Ronald Marsh. So that's our second. His</p> <p>3 wife, I believe, Ann Marsh, resulted in dismissal.</p> <p>4 Correct?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Jose De Jesus Cano is a guilty. Is that</p> <p>7 correct?</p> <p>8 A. Yes, sir.</p> <p>9 Q. So that gets us three. Frank Ross is</p> <p>10 dismissed. Is that correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Sylvia Medrano is dismissed. Is that correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Angel Trujillo pled guilty. Correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. So that gets us four. Rojas was a Grand Jury</p> <p>17 no bill. Correct?</p> <p>18 A. Correct.</p> <p>19 Q. And can you tell me what a Grand Jury no bill</p> <p>20 is?</p> <p>21 A. In this spreadsheet, our office conducted an</p> <p>22 investigation in cooperation with a local district</p> <p>23 attorney. The investigative findings were presented to</p> <p>24 a Grand Jury. And the Grand Jury voted on a no bill,</p> <p>25 which is that no criminal charges would be filed</p>	<p style="text-align: right;">115</p> <p>1 The next voter, Lorenzo Antonio Almanza,</p> <p>2 that's a pled guilty. Is that correct?</p> <p>3 A. Yes, sir.</p> <p>4 Q. So that gets us to seven counting the no</p> <p>5 contest. And then Jenkins and Heath were both</p> <p>6 convictions. Is that correct?</p> <p>7 A. Yes, sir.</p> <p>8 Q. So that gets us to nine?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Convictions of the 17 different cases. Is that</p> <p>11 correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay.</p> <p>14 THE REPORTER: Are you at a good stopping</p> <p>15 point?</p> <p>16 MR. DUNBAR: If we need to take a break,</p> <p>17 I --</p> <p>18 MR. CLAY: Are you almost done with this</p> <p>19 sheet? If so, why don't we finish that and we'll take a</p> <p>20 quick break? If you're not, let's go ahead and break.</p> <p>21 MR. DUNBAR: Let's break now.</p> <p>22 (Off the record)</p> <p>23 Q. (BY MR. DUNBAR) All right, Major Mitchell.</p> <p>24 We're still talking about the Prosecutions Resolved</p> <p>25 portion of your spreadsheet. And we've identified the</p>
<p style="text-align: right;">114</p> <p>1 pursuant to that investigation.</p> <p>2 Q. Right. And so that was the same resolution,</p> <p>3 then, for the next two Velas. Is that how you say the</p> <p>4 last name?</p> <p>5 A. Vela. Correct.</p> <p>6 Q. And skipping down to Castillo, we have a pled</p> <p>7 guilty. So that gets us to five. Is that right?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And then a Ozuna is a no contest. And perhaps</p> <p>10 that's where our difference is. Can you tell me what a</p> <p>11 no contest is?</p> <p>12 A. It's the suspect in this case didn't enter a</p> <p>13 plea of guilty or not guilty. They just didn't. They</p> <p>14 entered a plea of no contest to the charges as filed and</p> <p>15 then they agreed to the -- a punishment.</p> <p>16 Q. So when you were answering my question about a</p> <p>17 conviction or guilty plea, did you include the no</p> <p>18 contest in that summary?</p> <p>19 A. For the purposes, I think, of criminal</p> <p>20 convictions in the State of Texas, despite receiving</p> <p>21 a -- despite entering a plea of no contest, you still</p> <p>22 are found guilty -- or can be found guilty of a criminal</p> <p>23 offense.</p> <p>24 Q. Okay. That may have been the source of our</p> <p>25 error, but just to finish the exercise to make sure.</p>	<p style="text-align: right;">116</p> <p>1 17 different cases since the -- since your last</p> <p>2 deposition. Of those 17, how many involved charges of</p> <p>3 in-person voter impersonation?</p> <p>4 A. There's only one case that specifically illegal</p> <p>5 voting, voter impersonation was charged and convicted.</p> <p>6 Q. And that's Mr. Almanza. Is that correct?</p> <p>7 A. Yes, sir. Lorenzo Antonio Almanza, Jr.</p> <p>8 Q. And what can you tell me about that case?</p> <p>9 A. I believe I testified in the -- in my trial and</p> <p>10 in the deposition, that the facts and the circumstances</p> <p>11 of that case were Lorenzo Antonio Almanza presented</p> <p>12 himself at the Progreso School District election and</p> <p>13 utilized his brother's voter registration certificate.</p> <p>14 His brother, at the time -- I believe his name was</p> <p>15 Orlando Almanza -- was in custody in San Antonio in the</p> <p>16 state penitentiary when that election occurred, and that</p> <p>17 Lorenzo used his voter registration certificate to vote</p> <p>18 a second time in that election.</p> <p>19 During the course of the -- when he</p> <p>20 presented himself to the elections officials there, a</p> <p>21 poll watcher observed the name that was being put down</p> <p>22 on the combination form and recognized that this was</p> <p>23 not Orlando Almanza, this was his brother, Lorenzo</p> <p>24 Antonio, Jr., and brought that to the attention of the</p> <p>25 election judge. It was at that point in time, I</p>

MAJOR FORREST MITCHELL

8/12/2014

30 (Pages 117 to 120)

<p style="text-align: right;">117</p> <p>1 believe, that the mother, who had previously been</p> <p>2 convicted in our -- at the time of my deposition and at</p> <p>3 the time of the trial, that she interjected herself and</p> <p>4 began to argue with the elections judge and election</p> <p>5 workers, vouching that that was, indeed, her son Orlando</p> <p>6 and not Lorenzo. And the elections administrator for</p> <p>7 that school district election allowed him to vote, which</p> <p>8 became a second vote in that election, utilizing his</p> <p>9 brother's voter registration certificate.</p> <p>10 Q. And I believe you testified previously, but</p> <p>11 just to make sure I understand correctly, the mother</p> <p>12 herself never cast a ballot improperly in that election.</p> <p>13 Is that right?</p> <p>14 A. No, sir. She was charged as a party to the</p> <p>15 offense of illegal voting.</p> <p>16 Q. Something like aiding and abetting?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And during the Section Five deposition and</p> <p>19 testimony where you spoke about Mr. Almanza, the matter</p> <p>20 was still in the investigative stage at that time?</p> <p>21 A. No, sir. He had already been indicted and</p> <p>22 charged with the offense, but it was awaiting trial.</p> <p>23 Q. So he would have been on the charges pending</p> <p>24 portion of your spreadsheet. Is that --</p> <p>25 A. Correct.</p>	<p style="text-align: right;">119</p> <p>1 you may use that as one of your acceptable forms of</p> <p>2 documents to verify who you are at a polling place.</p> <p>3 Examples at the time would have been a utility bill, or</p> <p>4 a bill -- some sort of correspondence from the</p> <p>5 government. Any of those documents, you could use to</p> <p>6 present yourself as a voter. So Lorenzo used his</p> <p>7 brother's voter registration certificate, presented it</p> <p>8 to the poll worker, elections worker, and said he was</p> <p>9 Orlando Almanza.</p> <p>10 Q. But a poll watcher recognized him and knew that</p> <p>11 was not the case. Correct?</p> <p>12 A. Correct.</p> <p>13 Q. And so -- so a photo -- SB14's photo iden --</p> <p>14 with respect to this particular case, SB14's photo</p> <p>15 identification requirement wouldn't have been necessary</p> <p>16 to get a conviction. Is that correct?</p> <p>17 MR. CLAY: Objection; form and foundation.</p> <p>18 THE WITNESS: I mean, that's pure</p> <p>19 speculation on my part. I mean --</p> <p>20 Q. (BY MR. DUNBAR) Put differently, you were able</p> <p>21 to investigate and prosecute Mr. Almanza for what he did</p> <p>22 without an SB14 photo identification requirement in</p> <p>23 effect. Correct?</p> <p>24 A. Yes, sir, because we had a witness who was able</p> <p>25 to positively identify that suspect.</p>
<p style="text-align: right;">118</p> <p>1 Q. Is that correct? And did your office</p> <p>2 investigate this case?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And can you describe generally what that</p> <p>5 investigation entailed?</p> <p>6 MR. CLAY: Again, subject to law</p> <p>7 enforcement privilege.</p> <p>8 I don't want you to reveal any sensitive</p> <p>9 or law enforcement tactics or things of that nature, of</p> <p>10 course.</p> <p>11 THE WITNESS: It could -- any</p> <p>12 investigation could involve reviewing records and</p> <p>13 interviewing witnesses.</p> <p>14 Q. (BY MR. DUNBAR) And so Lorenzo, as I</p> <p>15 understand it, and I think you testified, presented his</p> <p>16 brother's voter registration card to a poll worker. Is</p> <p>17 that right?</p> <p>18 A. Yes, sir. Under Texas law when you go to vote</p> <p>19 in an election, at that time you could present your</p> <p>20 voter registration certificate --</p> <p>21 Q. Uh-huh.</p> <p>22 A. -- which was issued by the elections office,</p> <p>23 which would be mailed to your address that -- where</p> <p>24 you're registered. That certificate you then take to</p> <p>25 the elections -- or you take it to the polling place and</p>	<p style="text-align: right;">120</p> <p>1 Q. Right. Was Mr. Almanza a part -- were there</p> <p>2 allegations in Mr. Almanza's case that this was part of</p> <p>3 a kind of coordinated effort to affect the outcome of</p> <p>4 the election at issue?</p> <p>5 MR. CLAY: Objection; form, foundation.</p> <p>6 Q. (BY MR. DUNBAR) You can answer.</p> <p>7 A. This case involved many allegations involving</p> <p>8 many people.</p> <p>9 Q. What were the nature of those allegations</p> <p>10 regarding others? Setting aside -- how were -- how were</p> <p>11 Lorenzo and his mother's conduct connected with a</p> <p>12 broader coordinated effort?</p> <p>13 MR. CLAY: Again, we're getting close to</p> <p>14 implicating some law enforcement privilege, so just make</p> <p>15 sure your answer doesn't divulge any sensitive law</p> <p>16 enforcement information.</p> <p>17 THE WITNESS: The Progresso Independent</p> <p>18 School District election -- there have been many, many</p> <p>19 allegations of illegal voting that have occurred in</p> <p>20 that -- in that jurisdiction. They were not charged --</p> <p>21 Lorenzo or his mother Reyna Almanza were not charged as</p> <p>22 a party to any engaging in organized criminal activity.</p> <p>23 But there are many allegations of illegal voting in that</p> <p>24 jurisdiction.</p> <p>25 Q. (BY MR. DUNBAR) Understood. I guess as a kind</p>

MAJOR FORREST MITCHELL

8/12/2014

31 (Pages 121 to 124)

<p style="text-align: right;">121</p> <p>1 of general matter, my impression from at least the</p> <p>2 Prosecutions Resolved spreadsheet is that a lot of the</p> <p>3 conduct, whether it's in-person voter impersonation or</p> <p>4 otherwise, seemed to involve one-off instances of</p> <p>5 individuals engaging in election crimes. Is that -- is</p> <p>6 that an accurate portrayal?</p> <p>7 A. I'm not sure I understand the phrase one off.</p> <p>8 Q. Let me backtrack.</p> <p>9 Do we know -- is it -- without implicating</p> <p>10 the law enforcement privilege, can you talk about why</p> <p>11 Lorenzo Almanza engaged in the voter impersonation that</p> <p>12 he did?</p> <p>13 MR. CLAY: Objection; form and foundation.</p> <p>14 THE WITNESS: I was never allowed to</p> <p>15 interview Lorenzo Antonio Almanza about what he did. I</p> <p>16 couldn't say.</p> <p>17 Q. (BY MR. DUNBAR) So we don't know -- sitting</p> <p>18 here today, you're not sure if it was part of an effort</p> <p>19 to sway the outcome of the election or it was just an</p> <p>20 individual making a stupid criminal decision?</p> <p>21 A. He wasn't charged as a party to any engaging in</p> <p>22 organized criminal activity.</p> <p>23 Q. And Mr. Almanza, I believe we said, pled guilty</p> <p>24 to illegal voting, voter impersonation, and he was</p> <p>25 sentenced to two years in TDCJ. Is that right?</p>	<p style="text-align: right;">123</p> <p>1 Gilda Hernandez and Sylvia Medrano were all part of that</p> <p>2 same misconduct?</p> <p>3 A. This referral came in from the Secretary of</p> <p>4 State's office and you can see on the allegation portion</p> <p>5 of this spreadsheet --</p> <p>6 Q. Uh-huh.</p> <p>7 A. -- that it contains a wide variety of criminal</p> <p>8 allegations. If memory serves me correct, I think there</p> <p>9 were roughly ten different categories of criminal</p> <p>10 offenses. And --</p> <p>11 Q. And this was in connection -- sorry -- to</p> <p>12 clarify -- this was in connection with a primary</p> <p>13 election in Dallas, you said?</p> <p>14 A. Yes, sir. That's correct.</p> <p>15 Q. And can you describe just generally -- I can</p> <p>16 read the allegation column, but your general</p> <p>17 recollection of what the -- the case involved?</p> <p>18 A. There were allegations of mail-in ballot fraud.</p> <p>19 Q. Uh-huh.</p> <p>20 A. There were allegations of noncitizens voting.</p> <p>21 There were allegations of people who weren't residents</p> <p>22 of that particular precinct voting in that election.</p> <p>23 There were allegations of misconduct in the processing</p> <p>24 of the mail-in ballot applications.</p> <p>25 Q. Three of those four resulted in either not</p>
<p style="text-align: right;">122</p> <p>1 A. Yes, sir. That refers to Texas Department of</p> <p>2 Criminal Justice and that would be our state</p> <p>3 penitentiary.</p> <p>4 Q. Okay. And none of the other charges, with</p> <p>5 respect to the 17 different cases involve in-person</p> <p>6 voter impersonation. Is that right?</p> <p>7 A. Of the 17 different?</p> <p>8 Q. Right. I think this whole conversation started</p> <p>9 with me asking you which did and you identified Lorenzo,</p> <p>10 but I want to make sure I ask that question right and</p> <p>11 that there aren't others.</p> <p>12 A. I'm not aware of any other cases of the 17 that</p> <p>13 were identified that involve voter impersonation.</p> <p>14 Q. Thank you.</p> <p>15 And just to -- to very briefly walk</p> <p>16 through these cases, just to make sure at a high level I</p> <p>17 understand what's going on, if it wasn't in-person voter</p> <p>18 impersonation, I wanted to start with the Erica Perez</p> <p>19 and the -- and the -- and the Medranos, which, as I</p> <p>20 understand it, this was all part of a similar</p> <p>21 investigation. Am I wrong about that?</p> <p>22 A. No, sir. There were multiple suspects who were</p> <p>23 charged in the Dallas 2010 primary election case.</p> <p>24 Q. And that would have been Erica Perez, Richard</p> <p>25 Medrano, and then -- or you're telling me</p>	<p style="text-align: right;">124</p> <p>1 guilty or dismissal. Correct? As I read it, only</p> <p>2 Gilda Hernandez pled guilty?</p> <p>3 A. When you mean the three of the four, you're</p> <p>4 also referring to Sylvia Medrano?</p> <p>5 Q. Yes, sir.</p> <p>6 A. Yes, sir. Only Gilda Hernandez pled guilty.</p> <p>7 Q. And would any of the conduct for any of these</p> <p>8 four individuals that was alleged been anything that</p> <p>9 SB14's photo identification requirement would have</p> <p>10 prevented?</p> <p>11 MR. CLAY: Objection; form, foundation.</p> <p>12 THE WITNESS: Any of the four individuals</p> <p>13 meaning Erica Perez, Ricardo Medrano, Gilda Hernandez,</p> <p>14 and Sylvia Medrano?</p> <p>15 Q. (BY MR. DUNBAR) Yes, sir.</p> <p>16 A. The answer is, no, I do not believe it would</p> <p>17 have made an impact.</p> <p>18 Q. Thank you.</p> <p>19 And then this brings us to the issue that</p> <p>20 Reed hopefully pointed out earlier. The next on my list</p> <p>21 then would be the Marshes. And this is -- for those</p> <p>22 following on the phone, this is on Texas I.R. 000260 --</p> <p>23 and as we discussed previously, the date -- the</p> <p>24 resolution date there is March 23rd, 2011. Is that</p> <p>25 right?</p>

MAJOR FORREST MITCHELL

8/12/2014

32 (Pages 125 to 128)

<p style="text-align: right;">125</p> <p>1 A. Yes, sir. March 23rd, 2011.</p> <p>2 Q. And as -- as we discussed before, I don't</p> <p>3 believe that those were listed on the spreadsheet, that</p> <p>4 March 2012 spreadsheet that you testified about in your</p> <p>5 last deposition. Is that your understanding?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And can you explain the circumstances by which</p> <p>8 this case came to your attention and came to be added to</p> <p>9 the spreadsheet?</p> <p>10 A. If my memory serves me correctly, and I</p> <p>11 apologize, there's lots of referrals to our office, I</p> <p>12 believe this referral came from the local district</p> <p>13 attorney from Smith County and involved allegations of</p> <p>14 an election to determine whether or not a specific town</p> <p>15 was going to have liquor sales, which we call a local</p> <p>16 option election. And I believe the suspects in this</p> <p>17 case were identified as voters who voted in that</p> <p>18 election, but did not actually reside in that</p> <p>19 jurisdiction.</p> <p>20 Q. That's my understanding as well. So, then,</p> <p>21 Ronald Marsh pled guilty, and his wife, I believe,</p> <p>22 Annie Marsh, her case was dismissed?</p> <p>23 A. Yes, sir. That's correct.</p> <p>24 Q. So neither of the Marshes were charged with</p> <p>25 voter impersonation. Correct?</p>	<p style="text-align: right;">127</p> <p>1 I can't tell you whether or not --</p> <p>2 Q. (BY MR. DUNBAR) No. My question is -- is</p> <p>3 limited to the charging decision, which is that based on</p> <p>4 the charging decision, he was not charged with</p> <p>5 impersonating anyone?</p> <p>6 A. That is correct.</p> <p>7 Q. So again, this wouldn't have been a case that</p> <p>8 SB14's photo ID requirement would have prevented. Is</p> <p>9 that correct?</p> <p>10 A. His charges would not have -- SB14 would not</p> <p>11 have impacted his charge.</p> <p>12 Q. Thank you.</p> <p>13 We can skip Sylvia Medrano. And, again,</p> <p>14 on the same page, the next line down is Angel Trujillo,</p> <p>15 who, according to the charges column, was, again, one</p> <p>16 count illegal voting, ineligible voter, felon. Is that</p> <p>17 correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And Mr. Trujillo pled guilty. Correct?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And again, I think we established that at least</p> <p>22 as a charging decision matter, a charging decision does</p> <p>23 not -- the charging decision for ineligible voter, felon</p> <p>24 would not encompass in-person voter impersonation.</p> <p>25 Correct?</p>
<p style="text-align: right;">126</p> <p>1 A. No, sir.</p> <p>2 Q. And again, these wouldn't have been cases that</p> <p>3 SB14's photo ID requirement would have prevented. Is</p> <p>4 that correct?</p> <p>5 A. Not prevented. No, sir.</p> <p>6 Q. The next, moving on down the spreadsheet --</p> <p>7 again, this is on the same page, is a Mr. Cano who was</p> <p>8 charged with one count of illegal voting, ineligible</p> <p>9 voter, felon. Am I reading that correctly?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And so, as we previously discussed, I believe,</p> <p>12 the charge of ineligible voter, felon would not</p> <p>13 encompass in-person voter impersonation. Correct?</p> <p>14 A. I'm sorry. Would you repeat that one more</p> <p>15 time?</p> <p>16 Q. Sure.</p> <p>17 I think as we previously testified, a</p> <p>18 charge that reads ineligible voter, felon, does not</p> <p>19 encompass in-person voter impersonation. Correct?</p> <p>20 MR. CLAY: Objection; misstates his prior</p> <p>21 testimony. Objection; form.</p> <p>22 THE WITNESS: I would say that Martin --</p> <p>23 or I'm sorry, Jesus Cano was charged with the allegation</p> <p>24 of illegal voting as a convicted felon. If you are</p> <p>25 asking about the entire investigation of this case or --</p>	<p style="text-align: right;">128</p> <p>1 MR. CLAY: Objection; misstates prior</p> <p>2 testimony.</p> <p>3 THE WITNESS: Mr. Trujillo was not charged</p> <p>4 with any offense of voter impersonation.</p> <p>5 Q. (BY MR. DUNBAR) So with respect to his</p> <p>6 charges, again, this wouldn't have been a case that</p> <p>7 SB14's photo ID requirement would have prevented.</p> <p>8 Correct?</p> <p>9 A. I do not believe so.</p> <p>10 Q. Again, on the same page of Texas I.R. 000260</p> <p>11 you have a set of charges -- excuse me, prosecutions,</p> <p>12 arising from Hidalgo County involving Rojas, Sylvia</p> <p>13 Salas Vela, Salvador Vela and -- those three. My</p> <p>14 understanding is that these involved a similar set of</p> <p>15 allegations. Am I correct about that?</p> <p>16 MR. CLAY: Objection; form, vague.</p> <p>17 Q. (BY MR. DUNBAR) Well, we'll just talk about</p> <p>18 them each individually, then. Let's start with Baudelia</p> <p>19 Zapata Rojas. The charge there is -- well, can you read</p> <p>20 for me what the charge is?</p> <p>21 A. Yes, sir. She was charged with unlawfully</p> <p>22 revealing information before the polls closed. That --</p> <p>23 that is typically a charge associated with somebody who</p> <p>24 actually worked in the elections -- or -- for the</p> <p>25 elections.</p>

MAJOR FORREST MITCHELL

8/12/2014

33 (Pages 129 to 132)

<p style="text-align: right;">129</p> <p>1 Q. Uh-huh.</p> <p>2 A. So she was an election worker and she</p> <p>3 potentially could have been -- that charge means that</p> <p>4 someone could have been revealing information on who has</p> <p>5 voted and who hasn't voted or what the numbers are of</p> <p>6 the votes.</p> <p>7 Q. And the Grand Jury returned a no bill in her</p> <p>8 case. Is that correct?</p> <p>9 A. That's my understanding. Yes, sir.</p> <p>10 Q. And even as -- even as charged, the charge --</p> <p>11 her charges had nothing to do with in-person voter</p> <p>12 impersonation. Is that correct?</p> <p>13 A. Yes, sir. She was not charged for any voter</p> <p>14 impersonation.</p> <p>15 Q. Okay. Moving down the line, Sylvia Vela,</p> <p>16 Salvador Vela, are those cases related or is it just a</p> <p>17 coincidence they have the same name?</p> <p>18 A. I apologize. I don't -- I'm not familiar with</p> <p>19 them.</p> <p>20 Q. Starting with -- starting with Sylvia Vela, we</p> <p>21 have a general charge of illegal voting. Correct?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And again, the jury returned a no bill there.</p> <p>24 Correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">131</p> <p>1 mail or drop box or to the -- to the box out on the</p> <p>2 street, and you're physically transporting that ballot,</p> <p>3 you must identify yourself as a person on the carrier</p> <p>4 envelope.</p> <p>5 Obviously, if you handle more ballots than</p> <p>6 one, the punishment can be increased. Another way to</p> <p>7 commit a violation of method of return marked ballot is</p> <p>8 if you possess that ballot without the voter's knowledge</p> <p>9 and consent. And in some investigations, people who are</p> <p>10 assisting voters with their mail-in ballots might</p> <p>11 collect ballots and then hand them to a third person</p> <p>12 without the voter's knowledge or consent. And that</p> <p>13 person could be charged as well.</p> <p>14 Q. Okay. So a charge or method of returning</p> <p>15 marked ballot, then, if I understand it correctly, would</p> <p>16 be unrelated to in-person voter impersonation. Correct?</p> <p>17 A. There's nothing to indicate that she was</p> <p>18 charged for in-person voter fraud.</p> <p>19 Q. And so, again, as charged, those charging</p> <p>20 allegations wouldn't have been anything SB14's photo ID</p> <p>21 requirement would have prevented. Is that correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Moving down the line, Fermina Castillo,</p> <p>24 That's, again, one count of illegal voting, ineligible</p> <p>25 voter, felon. Correct?</p>
<p style="text-align: right;">130</p> <p>1 Q. And do you recall anything about the -- the</p> <p>2 underlying nature of the charge of illegal voting?</p> <p>3 A. No, sir. I -- I'm not familiar which type of</p> <p>4 illegal voting it is, whether or not it's a felon, or</p> <p>5 voter impersonation, or voting twice.</p> <p>6 Q. So sitting here today, you can't say that that</p> <p>7 charge encompassed -- you're not sure whether it</p> <p>8 encompassed in-person voter impersonation?</p> <p>9 A. That's correct.</p> <p>10 Q. Salvador Vela, we have a mail -- a mail-in</p> <p>11 ballot violation, and the charge is listed method of</p> <p>12 returning marked ballot. Is that correct?</p> <p>13 A. Yes, sir, that's what it says.</p> <p>14 Q. Can you describe what those allegations and</p> <p>15 charges would entail?</p> <p>16 A. There are a number of different ways a suspect</p> <p>17 can commit a violation of method of returning marked</p> <p>18 ballot, and the punishment varies in some cases by the</p> <p>19 number of ballots that that person may possess or</p> <p>20 returns. If you are to assist a voter in the completion</p> <p>21 of a mail-in ballot, you must provide your personal</p> <p>22 identifying information on the actual mail-in ballot</p> <p>23 carrier envelope. And failure to do that could be a</p> <p>24 criminal offense. And, additionally, if you take or</p> <p>25 carry a ballot for a voter to the post office or to a</p>	<p style="text-align: right;">132</p> <p>1 A. Yes, sir.</p> <p>2 Q. And there was a guilty plea in that case. Is</p> <p>3 that correct?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And, again, I think we previously established</p> <p>6 that the charge of ineligible voter, felon does not</p> <p>7 encompass in-person voter impersonation. Correct?</p> <p>8 A. That's correct.</p> <p>9 MR. CLAY: Objection; misstates his prior</p> <p>10 testimony.</p> <p>11 Q. (BY MR. DUNBAR) So as far as you're aware</p> <p>12 sitting here today, Mr. Fermina Castillo's conduct, as</p> <p>13 charged, wouldn't have been anything that would be --</p> <p>14 that SB14's photo ID requirement would have prevented.</p> <p>15 Correct?</p> <p>16 A. Correct.</p> <p>17 Q. Moving on down the line, still on Texas I.R.</p> <p>18 000260, we see Margarita Rangel Ozuna. And the</p> <p>19 allegations list mail-in ballot violations, forgery. Am</p> <p>20 I reading that correctly?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Then the charge is one count, assisting voter.</p> <p>23 Is that correct?</p> <p>24 A. Yes, sir.</p> <p>25 Q. And can you explain to me generally what the</p>

MAJOR FORREST MITCHELL

8/12/2014

34 (Pages 133 to 136)

<p style="text-align: right;">133</p> <p>1 allegations are and the charges and how they -- how they</p> <p>2 might differ?</p> <p>3 A. There is a potential charge for unlawfully</p> <p>4 assisting a voter in the preparation of a mail-in ballot</p> <p>5 or as a poll-place violation. If you communicate by</p> <p>6 word, sign, or gesture how a person should -- I'm sorry.</p> <p>7 That's unlawfully influence -- unlawfully assisting a</p> <p>8 voter could be preparing a ballot contrary to the way</p> <p>9 the voter instructed you to, or it could be providing</p> <p>10 assistance to somebody who is not eligible for</p> <p>11 assistance. It's an offense that's frequently</p> <p>12 associated with mail-in ballot violation.</p> <p>13 Q. So Ms. Azuna was not charged with in-person</p> <p>14 voter impersonation, then. Correct?</p> <p>15 A. Correct.</p> <p>16 Q. She didn't attempt to vote as someone else in</p> <p>17 person?</p> <p>18 A. I only know what she was charged with, and that</p> <p>19 wasn't voter impersonation, illegal voting.</p> <p>20 Q. She was not charged with voter impersonation?</p> <p>21 A. She was not charged.</p> <p>22 Q. So again, as charged, her conduct wouldn't have</p> <p>23 been anything that SB14's photo ID requirement would</p> <p>24 have prevented. Correct?</p> <p>25 A. No, sir.</p>	<p style="text-align: right;">135</p> <p>1 Q. And they did that by staying in a hotel for</p> <p>2 several nights and claiming that hotel location was</p> <p>3 their residence?</p> <p>4 A. Yes, sir. It's my understanding that they</p> <p>5 changed their voter registration address to reflect that</p> <p>6 hotel.</p> <p>7 Q. And so as -- as charged, these -- these cases</p> <p>8 had nothing to do with in-person voter impersonation.</p> <p>9 Is that correct?</p> <p>10 A. Yes, sir. That's correct.</p> <p>11 Q. And they didn't have anything to do with</p> <p>12 noncitizens voting. Correct?</p> <p>13 A. Nothing to do with noncitizens. Correct.</p> <p>14 (Exhibit No. 6 marked)</p> <p>15 Q. (BY MR. DUNBAR) Major Mitchell, you're being</p> <p>16 handed what I believe is Exhibit No. 6. I'll give you a</p> <p>17 minute to take a look at this.</p> <p>18 A. Okay.</p> <p>19 Q. Have you seen this e-mail before?</p> <p>20 A. No, sir.</p> <p>21 Q. I just want to direct your attention to one --</p> <p>22 one part of it, the last line of Page 1. Moving over to</p> <p>23 Page 2, so it's the e-mail starting at the bottom.</p> <p>24 There's a sentence that reads (as read), "A few moments</p> <p>25 ago I concluded a conference call with the attorney</p>
<p style="text-align: right;">134</p> <p>1 Q. We have already discussed Mr. Almanza, which</p> <p>2 then leaves us the last two, flipping the page to Texas</p> <p>3 I.R. 000261. We have James Alan Jenkins and Adrian</p> <p>4 Heath. Do you recall anything about the background of</p> <p>5 these allegations?</p> <p>6 A. Yes.</p> <p>7 Q. What could you tell me about them?</p> <p>8 A. These two cases involve a special election</p> <p>9 which occurred in Montgomery County. This was for -- I</p> <p>10 believe it was for a rural utility district, rural</p> <p>11 utility district or municipal utility district, and</p> <p>12 these persons registered to vote at a hotel located</p> <p>13 inside the geographical boundaries of that jurisdiction</p> <p>14 and, therefore, were not residents -- real residents</p> <p>15 under the law and so were ineligible to vote in that</p> <p>16 election and they voted in that election.</p> <p>17 Q. This is the case where the individuals were</p> <p>18 upset about the decisions the utility board was making</p> <p>19 and wanted to influence the outcome of the commissioner</p> <p>20 election. Is that right?</p> <p>21 A. Yes, sir. It's my understanding that the</p> <p>22 suspects in this case were -- were registering to the</p> <p>23 vote in that election to -- to make an impact on the --</p> <p>24 who the board members were for that municipal -- or</p> <p>25 utility district.</p>	<p style="text-align: right;">136</p> <p>1 general's office on the voter fraud in the June 23rd</p> <p>2 township election." And then it goes on to outline the</p> <p>3 appropriate procedures to follow under the OAG</p> <p>4 guidelines. Do you see that?</p> <p>5 A. Yes, sir.</p> <p>6 MR. CLAY: I'm sorry. Where are you?</p> <p>7 MR. DUNBAR: Page two, which is Texas 0 --</p> <p>8 I'm sorry. The bottom of Page 1. It's the e-mail</p> <p>9 beginning on the very bottom of Page 1 from</p> <p>10 Tommy Williams to James Stilwell and Bruce Tough and --</p> <p>11 THE WITNESS: I'm sorry. I lost the</p> <p>12 train -- where the question was -- I apologize.</p> <p>13 Q. (BY MR. DUNBAR) That's fine. But can you tell</p> <p>14 me who -- do you know who Tommy Williams is?</p> <p>15 A. I believe Tommy Williams is a state senator --</p> <p>16 Q. Uh-huh.</p> <p>17 A. -- on the Texas legislature.</p> <p>18 Q. So he's sending an e-mail to a few individuals</p> <p>19 saying that I just concluded a conference call with the</p> <p>20 Attorney General's office on voter fraud in the</p> <p>21 June 23rd township election. My question is whether you</p> <p>22 participated in that conference call that he's</p> <p>23 referencing?</p> <p>24 A. No, sir.</p> <p>25 Q. Are you aware of who in the OAG's office may</p>

MAJOR FORREST MITCHELL

8/12/2014

35 (Pages 137 to 140)

<p style="text-align: right;">137</p> <p>1 have participated in that conference call?</p> <p>2 A. No, sir.</p> <p>3 Q. But you recall the -- do you recall the</p> <p>4 referral for the allegations relating to this</p> <p>5 election -- election misconduct coming through your</p> <p>6 office?</p> <p>7 A. Yes, sir. I believe we got -- in that</p> <p>8 particular case, I believe that the local district</p> <p>9 attorney requested assistance as well as the secretary</p> <p>10 of state's office issued a referral.</p> <p>11 Q. And do you know why Senator Williams took such</p> <p>12 an interest in this case?</p> <p>13 A. No, sir. I believe he's in that geographical</p> <p>14 area.</p> <p>15 Q. Right. Okay. And so of the -- of the 17</p> <p>16 different cases since your last deposition, then, to sum</p> <p>17 up, one involve charges of in-person voter</p> <p>18 impersonation. Is that correct?</p> <p>19 A. That's correct.</p> <p>20 Q. I would now like to talk about the, I think,</p> <p>21 final part of your spreadsheet, which is the referral</p> <p>22 section, which is I.R. 000233 to I.R. 000254.</p> <p>23 MR. CLAY: Was the e-mail 6?</p> <p>24 THE REPORTER: The last one was 6.</p> <p>25 MR. DUNBAR: I've lost track.</p>	<p style="text-align: right;">139</p> <p>1 Q. And for my clarification, which -- which page</p> <p>2 does the second part of the referral spreadsheet start</p> <p>3 on?</p> <p>4 A. The second portion of the referral -- the</p> <p>5 second categorization starts on Page 15 of the document</p> <p>6 which is identified as TX I.R. 000247.</p> <p>7 Q. Thank you.</p> <p>8 And the second part -- the second part</p> <p>9 that begins on I.R. 000247, to make sure I understand</p> <p>10 your testimony, would be referrals from other sources</p> <p>11 other than the secretary of state's office?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. Starting with the --</p> <p>14 A. If I could expand on that.</p> <p>15 Q. Please.</p> <p>16 A. I'm sorry. It's not -- it's more than just</p> <p>17 referrals. It is allegations that this office had been</p> <p>18 made aware of. It may not be a full referral. For</p> <p>19 instance, you may see that some of these may be a voter.</p> <p>20 A voter may have called our office and made us aware of</p> <p>21 an allegation of misconduct. It may not have resulted</p> <p>22 in an investigation as previously testified.</p> <p>23 Q. I see. So the -- the hypothetical voter that</p> <p>24 we were talking about earlier that just might call AOG's</p> <p>25 hotline and say, "I want to report voting fraud," I</p>
<p style="text-align: right;">138</p> <p>1 Q. (BY MR. CLAY) Okay. And can you tell me in</p> <p>2 general terms, then, what the referrals section of your</p> <p>3 spreadsheet encompasses?</p> <p>4 A. The spreadsheet is divided into two categories.</p> <p>5 One would be direct referrals from the secretary of</p> <p>6 state's office. And that portion of the spreadsheet</p> <p>7 would include the county.</p> <p>8 Q. Uh-huh.</p> <p>9 A. The specific election involved what type it is:</p> <p>10 Municipal, special, constitutional, primary, general</p> <p>11 election, what the date of the referral document was</p> <p>12 from the secretary of state's office, and a general</p> <p>13 explanation of what the allegations are as written in</p> <p>14 the SOS referral letter.</p> <p>15 The second portion of the spreadsheet is a</p> <p>16 list of other complaints or allegations that have come</p> <p>17 into our office.</p> <p>18 Q. Uh-huh.</p> <p>19 A. They're categorized as either by the voter or</p> <p>20 other. And if it is an other categorization, that</p> <p>21 generally is a law enforcement official, an elected</p> <p>22 district or county attorney, or a local elections</p> <p>23 administrator. Again, with the information about the</p> <p>24 county, the election, or what the general allegations</p> <p>25 are.</p>	<p style="text-align: right;">140</p> <p>1 believe you testified the person answering the call</p> <p>2 would direct them to the secretary of state's hotline,</p> <p>3 but you would still record that referral on this section</p> <p>4 of the spread -- or somewhere in the referral section of</p> <p>5 your spreadsheet?</p> <p>6 A. If it got to the attention of the law</p> <p>7 enforcement division. In some cases, our -- our</p> <p>8 communications, public information and assistance are</p> <p>9 successful in routing it to the SOS right away. In</p> <p>10 other cases, some people persist and it comes to the law</p> <p>11 enforcement division. And if they speak directly to a</p> <p>12 police officer or an investigator, we'll document that.</p> <p>13 Q. I see. And how often do -- does the persistent</p> <p>14 caller get through to speak to someone actually in SIU?</p> <p>15 A. Not -- not very often.</p> <p>16 Q. Okay. Okay. Well, starting with the first</p> <p>17 part of your referral spreadsheet -- and I appreciate</p> <p>18 that clarification, because it goes to one of my</p> <p>19 questions. By my count, starting on Texas I.R. 000237,</p> <p>20 which is Page 5 of your document, we have -- I'm using</p> <p>21 the previous date that we've been using March 12th,</p> <p>22 2012, it looks like starting with the entry -- it's</p> <p>23 Angelina 2010 primary election 3/22/12, illegal voting.</p> <p>24 Down would be the so-called new referral since your --</p> <p>25 since your last deposition. Am I interpreting your</p>

MAJOR FORREST MITCHELL

8/12/2014

36 (Pages 141 to 144)

<p style="text-align: right;">141</p> <p>1 spreadsheet correctly in that regard?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So everything -- everything that's on</p> <p>4 this spreadsheet as of February 18th, 2014 was still in</p> <p>5 some stage of investigation. Is that correct? Or would</p> <p>6 this -- let me rephrase.</p> <p>7 Would this spreadsheet encompass referrals</p> <p>8 that have come over and then a decision has been made,</p> <p>9 either not to investigate or not to prosecute?</p> <p>10 A. This spreadsheet reflects the referrals that</p> <p>11 would be made to this office and what the originating</p> <p>12 source was and what the date of that referral was.</p> <p>13 Q. So if I'm looking to take, for example, the</p> <p>14 Angelina 2010 primary election referral, which has an</p> <p>15 SOS referral date of 3/22/12, its presence on this</p> <p>16 spreadsheet doesn't suggest that is as it continues to</p> <p>17 be a pending investigation. Am I understanding that</p> <p>18 right?</p> <p>19 A. That spreadsheet does not reflect a disposition</p> <p>20 of any investigation.</p> <p>21 Q. So this could -- it would -- this entry would</p> <p>22 remain on your spreadsheet, even if your -- even if your</p> <p>23 investigators had decided this case isn't -- there's</p> <p>24 nothing to this case, or it's not worth prosecuting?</p> <p>25 A. This -- the referrals will never be removed</p>	<p style="text-align: right;">143</p> <p>1 are -- that have been completed or simply never started?</p> <p>2 MR. CLAY: Objection; form, foundation.</p> <p>3 To the extent that you understand the</p> <p>4 question and have an answer, you can answer.</p> <p>5 THE WITNESS: I haven't done any analysis</p> <p>6 of how many are still pending or open or closed or --</p> <p>7 Q. (BY MR. DUNBAR) Do you know how many pending</p> <p>8 Election Code investigations there are in SIU currently?</p> <p>9 A. Not off the top of my head.</p> <p>10 Q. Would it be something like ten, or a hundred,</p> <p>11 or a thousand? What kind of rough ballpark of how many</p> <p>12 investigations are actually considered ongoing at any</p> <p>13 given time with respect to the election team?</p> <p>14 MR. CLAY: Objection; vague. To the</p> <p>15 extent you understand his question, you can answer.</p> <p>16 THE WITNESS: It depends on what the -- it</p> <p>17 depends on what the definition of open is. I mean, as</p> <p>18 we discussed previously and I previously testified, the</p> <p>19 only thing that we're statutorily bound by is the</p> <p>20 statute of limitations and, technically, a case wouldn't</p> <p>21 necessarily be completely closed until the statute of</p> <p>22 limitations is completely expired. Now, open and</p> <p>23 active, or open and inactive, there's a wide variety or</p> <p>24 there's a wide range of those categories. Each</p> <p>25 investigator could have five, ten, twenty cases, some</p>
<p style="text-align: right;">142</p> <p>1 from the spreadsheet. It's documenting all referrals</p> <p>2 that come into this office regardless of prosecution</p> <p>3 decisions or investigative decisions.</p> <p>4 Q. So it wouldn't be correct to assume that</p> <p>5 everything that's listed here remains a pending</p> <p>6 investigation?</p> <p>7 A. Again, this spreadsheet doesn't have anything</p> <p>8 to do with -- about dispositions of cases.</p> <p>9 Q. And do you keep separate documentation on that?</p> <p>10 A. No. We keep the spreadsheet on prosecutions</p> <p>11 and we keep the spreadsheet on cases pending.</p> <p>12 Q. Uh-huh. But no -- you have no internal</p> <p>13 documents that track the status of ongoing</p> <p>14 investigations and whether an investigation resulted in</p> <p>15 a recommendation of no prosecution or was simply stopped</p> <p>16 for some other reason?</p> <p>17 A. Well, we have lots of records as law</p> <p>18 enforcement officers, including investigative reports,</p> <p>19 supplemental reports, spreadsheets, but not specifically</p> <p>20 for just elections. We maintain spreadsheets for all</p> <p>21 kinds of cases.</p> <p>22 Q. As a global matter, could you estimate what</p> <p>23 percentage of the referrals that are listed on this</p> <p>24 spreadsheet -- the SOS referrals since June of 2012</p> <p>25 remain pending investigations as opposed to those that</p>	<p style="text-align: right;">144</p> <p>1 more.</p> <p>2 Q. (BY MR. DUNBAR) At any given time --</p> <p>3 A. At any given time.</p> <p>4 Q. -- ones that are active in some sense?</p> <p>5 A. Various stages of completion.</p> <p>6 Q. So using that rough estimate, then, if you have</p> <p>7 four folks on the election team, twenty, maybe eighty,</p> <p>8 at most, active investigations that are being conducted</p> <p>9 at any given point in time?</p> <p>10 MR. CLAY: Objection; form.</p> <p>11 To the extent that you understand the</p> <p>12 question, you can answer.</p> <p>13 THE WITNESS: As I previously talked to</p> <p>14 about -- is that at any given time, any of the other</p> <p>15 team members could have to accept -- may have to work</p> <p>16 cases as well.</p> <p>17 Q. (BY MR. DUNBAR) Uh-huh.</p> <p>18 A. To help out a particular team. And some</p> <p>19 election cases have to be given to public integrity</p> <p>20 investigators or other fraud investigators. So they,</p> <p>21 too, themselves, could have a caseload of election</p> <p>22 cases. So you can't just use just the four on the team</p> <p>23 to do a rough estimate.</p> <p>24 Q. Right. Right. Now, that's helpful. Again,</p> <p>25 I'm only trying to get a rough ballpark for my</p>

MAJOR FORREST MITCHELL

8/12/2014

37 (Pages 145 to 148)

<p style="text-align: right;">145</p> <p>1 understanding.</p> <p>2 Looking at Texas I.R. 000237. This is an</p> <p>3 entry that's one, two, three, four, five, six, seven --</p> <p>4 seven up from the bottom. You have Gillespie County</p> <p>5 2012 municipal and primary election, an SOS referral</p> <p>6 date of 7/12/2012, illegal -- illegal voting with</p> <p>7 respect to the allegation, parenthetical, voter</p> <p>8 impersonation, deceased voter. Am I reading all of that</p> <p>9 correctly?</p> <p>10 A. I'm sorry. Could you give me the cite, the</p> <p>11 page --</p> <p>12 Q. Sure. This is Page 5 of your own spreadsheet,</p> <p>13 which may be easier for you to use.</p> <p>14 A. So you're referring to 000237?</p> <p>15 Q. Yes, sir.</p> <p>16 A. And Gillespie County?</p> <p>17 Q. Yes, sir. I think it's eight up from the</p> <p>18 bottom.</p> <p>19 A. Yes, sir. Okay.</p> <p>20 Q. Starting with that and then going four pages of</p> <p>21 the spreadsheet to Page -- well, actually carries over</p> <p>22 to Page 13, Texas I.R. 000245, the very top entry, you</p> <p>23 have what appears to be hundreds of referrals that were</p> <p>24 made on the same day that all have the same allegation</p> <p>25 listed, which is illegal voting, voter impersonation,</p>	<p style="text-align: right;">147</p> <p>1 the different counties mentioned in the spreadsheet and</p> <p>2 the various elections mentioned in the spreadsheet.</p> <p>3 Q. And these referrals were made shortly after or</p> <p>4 maybe even during the Section Five trial. Is that</p> <p>5 correct?</p> <p>6 A. The referral document date was 7/12/2012.</p> <p>7 Q. I believe, in fact, certain representatives of</p> <p>8 states might even have testified about the possibility</p> <p>9 that there was this -- this new referrals of deceased</p> <p>10 voters voting coming over to the Attorney General's</p> <p>11 office. Are you familiar with that testimony?</p> <p>12 A. I didn't listen to anybody else's testimony.</p> <p>13 Q. Do you know what the basis for SOS's referrals</p> <p>14 was, that is how in all of these different counties</p> <p>15 across the state they were able to make these various</p> <p>16 referrals of deceased voting?</p> <p>17 MR. CLAY: Objection; form, foundation.</p> <p>18 THE WITNESS: Globally, when you're</p> <p>19 talking about voter impersonation and deceased voters,</p> <p>20 it could be that these individuals were identified</p> <p>21 through deceased notifications of driver's license,</p> <p>22 Social Security, observed from the local elections</p> <p>23 administrators. There's a wide way -- a wide variety of</p> <p>24 how deceased voters are identified.</p> <p>25 Q. (BY MR. DUNBAR) But you don't recall anything</p>
<p style="text-align: right;">146</p> <p>1 deceased voter that were referred from the secretary of</p> <p>2 state's office. Am I -- am I understanding that</p> <p>3 spreadsheet correctly?</p> <p>4 A. Yes, sir.</p> <p>5 MR. CLAY: Objection; form, foundation.</p> <p>6 Q. (BY MR. DUNBAR) And those are from counties</p> <p>7 across Texas, it appears. Is that correct?</p> <p>8 A. Yes, sir. There are multiple counties that are</p> <p>9 listed in this -- in that -- in these referrals.</p> <p>10 Q. Can you provide me any background on how these</p> <p>11 referrals came from the secretary of state's office?</p> <p>12 MR. CLAY: Objection; form, foundation.</p> <p>13 To the extent you understand the question,</p> <p>14 you can answer.</p> <p>15 THE WITNESS: These come to the</p> <p>16 secretary -- these come from the secretary of state's</p> <p>17 office like all of our referrals come from the secretary</p> <p>18 of state's office. A packet was prepared that was</p> <p>19 referred to the director of law enforcement and then</p> <p>20 given to our criminal justice intake division --</p> <p>21 Q. (BY MR. DUNBAR) Uh-huh.</p> <p>22 A. And containing allegations of deceased</p> <p>23 voters --</p> <p>24 Q. Uh-huh.</p> <p>25 A. -- who were voting in elections throughout all</p>	<p style="text-align: right;">148</p> <p>1 specifically about this bucket of a couple hundred</p> <p>2 referrals?</p> <p>3 A. I think it's 254 referrals.</p> <p>4 Q. 254.</p> <p>5 A. And I don't know specifically exactly how they</p> <p>6 were identified in each one.</p> <p>7 Q. But it is unusual -- and I'm just looking at</p> <p>8 your spreadsheet. At least there's no other occasion</p> <p>9 that I can tell where the secretary of state's office</p> <p>10 has sent over this volume of referrals at once, is</p> <p>11 there?</p> <p>12 MR. CLAY: Objection; form.</p> <p>13 THE WITNESS: There's one case that we</p> <p>14 received allegations of illegal voting, voter</p> <p>15 impersonation with deceased voters out of Harris</p> <p>16 County --</p> <p>17 Q. (BY MR. DUNBAR) Uh-huh.</p> <p>18 A. -- which is also contained in the spreadsheet.</p> <p>19 Q. Uh-huh.</p> <p>20 A. When we received that referral it said that</p> <p>21 there were 10,000 individuals.</p> <p>22 Q. Uh-huh.</p> <p>23 A. So we do receive allegations of deceased voters</p> <p>24 in elections. It is atypical to get that many from</p> <p>25 different jurisdictions.</p>

MAJOR FORREST MITCHELL

8/12/2014

38 (Pages 149 to 152)

<p style="text-align: right;">149</p> <p>1 Q. And are the investigations relating to these</p> <p>2 deceased voting referrals still ongoing?</p> <p>3 A. The spreadsheet doesn't indicate the</p> <p>4 disposition of any of those cases.</p> <p>5 Q. Do you know sitting here today?</p> <p>6 A. I don't know the number that are still ongoing</p> <p>7 or closed or -- or in active status or --</p> <p>8 Q. Could you give an estimate?</p> <p>9 A. I don't know.</p> <p>10 Q. But I assume -- you would know -- if it was,</p> <p>11 say, all eighty of the cases that the election team was</p> <p>12 investigating were related to these, you would probably</p> <p>13 know -- know that. Correct?</p> <p>14 A. Your investigative reports are reviewed at the</p> <p>15 lieutenant level.</p> <p>16 Q. Uh-huh.</p> <p>17 A. And so there are -- you know, the investigative</p> <p>18 report is reviewed and the -- a determination is made by</p> <p>19 the investigator and the lieutenant and captain as to</p> <p>20 whether or not this case is going to be closed or</p> <p>21 whether or not it's going to remain open. And at some</p> <p>22 point in time they do notify me that they're going to</p> <p>23 close a case. But I haven't kept any summary of which</p> <p>24 ones are still open or closed.</p> <p>25 Q. And so just with respect to these 7/12/2010</p>	<p style="text-align: right;">151</p> <p>1 MR. CLAY: Objection; form. I think it</p> <p>2 misstates his earlier testimony.</p> <p>3 THE WITNESS: I -- I want to say I have a</p> <p>4 memory of one that was determined to be a repeat.</p> <p>5 Q. (BY MR. DUNBAR) I see. But sitting here</p> <p>6 today, that's the only one you can remember?</p> <p>7 A. That's the only one that sticks out in my mind.</p> <p>8 Q. Okay. And I believe you answered my question,</p> <p>9 but just to make sure I understand your spreadsheet</p> <p>10 correctly, no charges against any voters in connection</p> <p>11 with these 7/12/2012 referrals have been filed.</p> <p>12 Correct?</p> <p>13 A. Not charged any suspects.</p> <p>14 Q. And under what section of the election code</p> <p>15 would those prosecutions occur?</p> <p>16 A. There's a couple of offenses that could be</p> <p>17 identified. If you impersonate a deceased voter, it</p> <p>18 would be 64.012, illegal voting, voter impersonation.</p> <p>19 If you had also voted as somebody else, if you voted as</p> <p>20 yourself, you could be charged as a double vote, which</p> <p>21 would be also on 64.012. You could also be charged for</p> <p>22 tampering with a government record, which would be Penal</p> <p>23 Code 37.10.</p> <p>24 Q. And with respect to the allegations with</p> <p>25 respect to this -- the 254 referrals, do you know</p>
<p style="text-align: right;">150</p> <p>1 referrals, you -- sitting here today, you're not aware</p> <p>2 of the status of any of them, that is whether the</p> <p>3 investigation is open, closed, inactive, et cetera?</p> <p>4 A. None of the -- none of the ones that are on</p> <p>5 7/12 have been referred for criminal prosecution. We</p> <p>6 haven't charged anybody, and we haven't resolved any of</p> <p>7 those cases yet.</p> <p>8 Q. You were jumping ahead to my next question.</p> <p>9 Which I will ask you just to make sure the record is</p> <p>10 clear. But I just meant from an invest -- from purely a</p> <p>11 status of the investigation standpoint is all I'm trying</p> <p>12 to understand, you're -- either with respect to any</p> <p>13 specific referral or as a general matter, sitting here</p> <p>14 today, you can't say anything about the status of those</p> <p>15 investigations?</p> <p>16 A. I can't say if they're all inactive or active</p> <p>17 or open, being -- you know, I can't give you an exact</p> <p>18 status for all 254 of those.</p> <p>19 Q. Do you know whether investigations actually</p> <p>20 began with respect to any of the 254?</p> <p>21 A. Yes. They -- they were investigated. We</p> <p>22 opened investigations.</p> <p>23 Q. Okay. So none of the 254 were sort of screened</p> <p>24 out at the -- at the early stages through that process</p> <p>25 we -- that informal process we were discussing earlier?</p>	<p style="text-align: right;">152</p> <p>1 whether any of them involved allegations of -- do you</p> <p>2 know whether any of them involved allegations of use of</p> <p>3 a forged student identification to vote?</p> <p>4 A. No, sir, I don't know.</p> <p>5 Q. What about an employer ID?</p> <p>6 A. No, sir. I don't have any --</p> <p>7 Q. Or I believe you mentioned previously to vote</p> <p>8 you could use a utility bill as a form of</p> <p>9 identification. Sitting here today, do you know whether</p> <p>10 any of these cases involved the use of utility bills as</p> <p>11 a form of identification?</p> <p>12 A. No, sir. I don't have any specific information</p> <p>13 about that.</p> <p>14 Q. And do you have specific information or do you</p> <p>15 know specific information about any of the -- of how the</p> <p>16 alleged deceased voter voting occurred in the -- with</p> <p>17 respect to these referrals?</p> <p>18 A. Sitting here today, I don't really have much</p> <p>19 information, aside from what's on the spreadsheet which</p> <p>20 is the county where it occurred, the election that's</p> <p>21 involved, whether or not it's municipal, and what the</p> <p>22 date was it was referred. No, I don't have any -- any</p> <p>23 more than that.</p> <p>24 Q. Right. And there's a lot of -- there's a lot</p> <p>25 of ways that someone might attempt to impersonate a</p>

MAJOR FORREST MITCHELL

8/12/2014

39 (Pages 153 to 156)

<p style="text-align: right;">153</p> <p>1 deceased voter and vote. Correct?</p> <p>2 MR. CLAY: Objection; vague.</p> <p>3 THE WITNESS: Yes. We have cases where</p> <p>4 voters have impersonated someone else, and that's been</p> <p>5 done in different ways.</p> <p>6 Q. (BY MR. DUNBAR) And then turning to Texas I.R.</p> <p>7 000245, which is Page 13 of your spreadsheet.</p> <p>8 A. (Witness complies).</p> <p>9 Q. With respect -- this is, again, just with</p> <p>10 respect to the status of these referrals, as I'm reading</p> <p>11 the allegation section, I see one that involves voter</p> <p>12 impersonation but relates to a mail-in ballot from</p> <p>13 Harris County. Is that correct?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And I see a second voter impersonation from</p> <p>16 Hidalgo County in a 2011 municipal election, with the</p> <p>17 SOS referral date of 2/12/13. Is that correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And do you know anything about the status of</p> <p>20 either of those investigations?</p> <p>21 MR. CLAY: Again, to the extent it doesn't</p> <p>22 implicate law enforcement privilege, you can answer.</p> <p>23 THE WITNESS: No, sir. I'm not familiar</p> <p>24 with the status right now.</p> <p>25 Q. (BY MR. DUNBAR) And then flipping to the</p>	<p style="text-align: right;">155</p> <p>1 someone in the law enforcement division, they'll make a</p> <p>2 record of that contact.</p> <p>3 Q. So by -- by being present on this spreadsheet,</p> <p>4 this in no way suggests that -- that the SIU has</p> <p>5 concluded that those allegations are credible in any</p> <p>6 respect. Correct?</p> <p>7 A. If I could answer as, because they're on the</p> <p>8 spreadsheet, it does not indicate whether or not a full</p> <p>9 investigation has been opened, if it is from a voter.</p> <p>10 Q. Right. So if a voter calls and makes -- is</p> <p>11 persistent, as you said, and gets through to your</p> <p>12 office, an investigator listens to an allegation that I</p> <p>13 saw in-person voter impersonation, that would make it on</p> <p>14 to the spreadsheet without any further investigation by</p> <p>15 that person to determine whether that allegation is --</p> <p>16 is credible in any sense?</p> <p>17 A. That's correct.</p> <p>18 Q. Okay. The -- the final set of questions I want</p> <p>19 to ask just relate to the -- the SIU in the wake of</p> <p>20 after SB14 has started to be implemented. And I guess</p> <p>21 as a general matter, since -- since SB14 has been</p> <p>22 implemented in July of 2013 -- in particular its photo</p> <p>23 ID requirements, has that had any affect on the</p> <p>24 operation of the special investigations unit?</p> <p>25 A. No, sir.</p>
<p style="text-align: right;">154</p> <p>1 second part of your referral spreadsheet, which is the</p> <p>2 source of -- where the source of referral is not from</p> <p>3 the secretary of state's office, dates of referrals are</p> <p>4 not recorded here. Is that correct?</p> <p>5 A. No, sir. They're not.</p> <p>6 Q. So it's a little bit harder to tell what the</p> <p>7 quote/unquote different referrals are, but I just want</p> <p>8 to turn to the -- turn to Page 21, which is Texas I.R.</p> <p>9 000253. There are various allegations from 2012 general</p> <p>10 election that relate to illegal voting, voter</p> <p>11 impersonation, illegal voting, convicted felons. Do you</p> <p>12 see those entries, Major Mitchell?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And again, do you recall -- with respect to the</p> <p>15 voter impersonation referrals in particular, do you</p> <p>16 recall anything specific about the status of those</p> <p>17 referrals?</p> <p>18 A. All I can say is that none of those have been</p> <p>19 added to the Prosecutions Resolved or charges pending.</p> <p>20 Q. And to be clear, to make it on to this referral</p> <p>21 spreadsheet, would not even -- these referrals -- these</p> <p>22 referrals, as I believe you testified earlier, could</p> <p>23 come from simply a voter on the phone identifying an</p> <p>24 alleged conduct. Is that correct?</p> <p>25 A. Yes, sir. If they spoke -- if they speak to</p>	<p style="text-align: right;">156</p> <p>1 Q. So since that time you haven't dedicated either</p> <p>2 more or less resources toward combating Election Code</p> <p>3 violations?</p> <p>4 A. No, sir. You know, we have three to four</p> <p>5 investigators assigned. Right now we have four</p> <p>6 investigators assigned to that unit. It's no more than</p> <p>7 we had in 2012-'13.</p> <p>8 Q. And in your -- has there been a change in the</p> <p>9 number of Election Code referrals that have come to</p> <p>10 the -- that have come to the attention of SIU since SB14</p> <p>11 became effective in July of 2013?</p> <p>12 A. No. There's been no -- no significant change</p> <p>13 in the amount of referrals.</p> <p>14 Q. And since SB14 became effective, have you</p> <p>15 changed in any way the way you investigate in-person</p> <p>16 voter impersonation?</p> <p>17 A. There was one way that we have changed, and</p> <p>18 that is in the manner in which we conduct our photo</p> <p>19 lineups, our photo arrays when we're interviewing</p> <p>20 witnesses. That's changed as a matter of state statute</p> <p>21 and policy.</p> <p>22 Q. Can you just briefly expand on that? I'm not</p> <p>23 sure I'm familiar with that.</p> <p>24 A. Previously, we would prepare what we, in law</p> <p>25 enforcement, call a -- a photo array, where it involves</p>

MAJOR FORREST MITCHELL

8/12/2014

40 (Pages 157 to 160)

<p style="text-align: right;">157</p> <p>1 six picture of suspects -- or six pictures of</p> <p>2 individuals, one of whom may be a suspect. The -- the</p> <p>3 policy has been changed now where we -- instead of</p> <p>4 having all of them on the same page, we now show our</p> <p>5 pictures individually, if I'm able to describe myself.</p> <p>6 We might have a stack of pictures that we show them.</p> <p>7 Q. I see. So other than that, there hasn't been</p> <p>8 any change?</p> <p>9 A. No.</p> <p>10 Q. What about change in terms of priority SIU</p> <p>11 assigns to investigating or prosecuting in-person voter</p> <p>12 impersonation?</p> <p>13 A. No. No change in priority.</p> <p>14 Q. Part of -- part of SIU's mandate, as I</p> <p>15 understand it, is to train police departments, sheriff's</p> <p>16 offices, district and county attorneys to help identify,</p> <p>17 investigate and prosecute election crimes. Is that</p> <p>18 correct?</p> <p>19 A. It was one of the things that we focused on</p> <p>20 back in 2006.</p> <p>21 Q. Uh-huh. And is that type of training still</p> <p>22 ongoing?</p> <p>23 A. No. We haven't done anymore. The most recent</p> <p>24 initiative that we wrapped up was a human trafficking</p> <p>25 initiative where we trained officers throughout the</p>	<p style="text-align: right;">159</p> <p>1 A. There's -- one way to impersonate a voter is</p> <p>2 through mail-in ballot fraud.</p> <p>3 Q. Right. And SB14's photo ID requirement doesn't</p> <p>4 address that problem. Correct?</p> <p>5 A. No.</p> <p>6 Q. So if I -- again, if I were someone who really</p> <p>7 wanted to cast a dead person's vote after SB14's photo</p> <p>8 ID requirements, I might decide not to go to the polling</p> <p>9 place, but I could do so through absentee ballot fraud.</p> <p>10 Is that correct?</p> <p>11 A. That is correct.</p> <p>12 Q. And SB14's photo ID requirements don't do</p> <p>13 anything to address the other range of Election Code</p> <p>14 violations, other than in-person voter impersonation.</p> <p>15 Is that correct?</p> <p>16 MR. CLAY: Objection; vague.</p> <p>17 Q. (BY MR. DUNBAR) Well, does SB14's photo ID</p> <p>18 requirement do anything to address a problem with voter</p> <p>19 coercion?</p> <p>20 A. Not to my knowledge.</p> <p>21 Q. Or vote buying?</p> <p>22 A. No, sir.</p> <p>23 Q. So if you were a group that was really intent</p> <p>24 on trying to affect an election outcome, you -- there</p> <p>25 would be other alternative ways that you could engage in</p>
<p style="text-align: right;">158</p> <p>1 state in human trafficking investigations.</p> <p>2 Q. And when was the last time you conducted</p> <p>3 training with respect to election crimes?</p> <p>4 A. Internally or externally?</p> <p>5 Q. I'm sorry. With police departments, sheriff</p> <p>6 offices, externally?</p> <p>7 A. That was all in 2006.</p> <p>8 Q. 2006. So you've done no new training, then,</p> <p>9 since either SB14 was enacted or implemented with</p> <p>10 respect to how to go about identifying, investigating,</p> <p>11 or prosecuting election crimes?</p> <p>12 A. No new training since that time.</p> <p>13 Q. And SB14, so I understand it -- SB14's photo ID</p> <p>14 requirements don't apply to early voting or absentee</p> <p>15 ballots. Is that correct? Is that your understanding?</p> <p>16 A. Well, I disagree. It doesn't apply to mail-in</p> <p>17 ballot voting, but it does apply to early voting.</p> <p>18 Q. Sorry. So I should clarify. SB14's photo ID</p> <p>19 requirements don't apply to early voting through an</p> <p>20 absentee ballot. Is that correct?</p> <p>21 A. That's correct.</p> <p>22 Q. So if I'm someone who is really intent, say, on</p> <p>23 using a dead person's registration to vote, even after</p> <p>24 SB14's photo ID requirements were incorrect, I could do</p> <p>25 so, just do so through an absentee ballot. Correct?</p>	<p style="text-align: right;">160</p> <p>1 election fraud that SB14's photo ID requirement couldn't</p> <p>2 do anything to prevent. Correct?</p> <p>3 A. If I may retract my previous answer. You made</p> <p>4 the statement of vote buying. It's been my experience</p> <p>5 that we have conducted criminal investigations of</p> <p>6 coordinated efforts by individuals to facilitate illegal</p> <p>7 voting. If the vote-buying effort was coordinated with</p> <p>8 a fraudulent ID, then that may have an impact.</p> <p>9 Q. Right. No, I understand that. My question is</p> <p>10 if -- in a hypothetical sense, if you're a group that</p> <p>11 really wants to affect an election outcome after SB14,</p> <p>12 doing so through in-person voter fraud is arguably</p> <p>13 harder. Correct?</p> <p>14 A. I believe so. Yes, sir.</p> <p>15 Q. That's the intent of the law. Correct?</p> <p>16 A. (Witness nods head).</p> <p>17 THE REPORTER: I'm sorry. What was your</p> <p>18 answer?</p> <p>19 THE WITNESS: I believe it is much more</p> <p>20 difficult.</p> <p>21 Q. (BY MR. DUNBAR) But that same group that</p> <p>22 wanted to affect an election outcome could -- could</p> <p>23 attempt to achieve that same result through a variety of</p> <p>24 other types of election fraud such as vote buying, vote</p> <p>25 coercion. Correct?</p>

MAJOR FORREST MITCHELL

8/12/2014

41 (Pages 161 to 164)

<p style="text-align: right;">161</p> <p>1 MR. CLAY: Objection; form, calls for</p> <p>2 speculation.</p> <p>3 THE WITNESS: I believe that mail-in</p> <p>4 ballot fraud is still a means by which a person could</p> <p>5 affect voter impersonation.</p> <p>6 Q. (BY MR. DUNBAR) Outside the contents of</p> <p>7 absentee ballot voting there are other things that this</p> <p>8 group that really wants to affect an election outcome</p> <p>9 could engage in, such as pressuring voters to vote in a</p> <p>10 certain way or buying votes. Correct?</p> <p>11 MR. CLAY: Same objection.</p> <p>12 THE WITNESS: I believe that those are</p> <p>13 other ways that a person can commit a criminal offense</p> <p>14 associated with elections.</p> <p>15 Q. (BY MR. DUNBAR) And SB14's photo ID</p> <p>16 requirement doesn't do anything to stop that -- those</p> <p>17 types of voter fraud. Correct?</p> <p>18 A. Not specifically the photo requirement, no.</p> <p>19 MR. DUNBAR: Okay. That's all of my</p> <p>20 questions, subject to the caveat that I really -- and</p> <p>21 subject, obviously, to Major Mitchell's availability, I</p> <p>22 know there are other folks that may want to answer</p> <p>23 questions -- ask questions. At some point, I'd like a</p> <p>24 little time just to be able to look at the new documents</p> <p>25 with the hope that we can just ask questions about that</p>	<p style="text-align: right;">163</p> <p>1 Q. And how long have those four investigators</p> <p>2 worked in your office?</p> <p>3 A. A couple have been in our office for about two</p> <p>4 years. Actually, I'd say three have been in our office</p> <p>5 for about two years, and then one has been in our office</p> <p>6 for maybe three or four years.</p> <p>7 Q. Okay. And you -- they either directly report</p> <p>8 to you or directly report to -- to someone under you.</p> <p>9 Is that correct?</p> <p>10 A. Yes, ma'am. They report directly to somebody</p> <p>11 underneath me.</p> <p>12 Q. So you're aware of their -- their job</p> <p>13 performance and how they're doing. Correct?</p> <p>14 A. Yes, ma'am.</p> <p>15 Q. And have you been happy so far with their job</p> <p>16 performance? Do you feel like they've been doing a good</p> <p>17 job?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. All right. Thank you. So you had mentioned</p> <p>20 earlier in your deposition the different teams that are</p> <p>21 housed within SIU. And you mentioned a -- a team that</p> <p>22 you referred to, I think, at the end of your list as</p> <p>23 kind of a fraud team, I think is what you called it.</p> <p>24 Could you explain a little bit more what -- what that</p> <p>25 team consists of and what kind of work they do?</p>
<p style="text-align: right;">162</p> <p>1 and close the -- close the deposition down today. But</p> <p>2 with that --</p> <p>3 MR. CLAY: Okay.</p> <p>4 MR. DUNBAR: -- I'll pass to whoever -- to</p> <p>5 whoever wants to go next.</p> <p>6 MS. CLARK: Is this a good time to take a</p> <p>7 lunch break?</p> <p>8 THE WITNESS: I'm fine. I can keep going.</p> <p>9 MR. CLAY: He's ready to keep going.</p> <p>10 MR. DUNBAR: Let's go off the record.</p> <p>11 (Off the record)</p> <p>12 EXAMINATION</p> <p>13 BY MS. CLARK:</p> <p>14 Q. Sir, this is Jennifer Clark from the Brennan</p> <p>15 Center, representing MALC and Texas NAACP. I will go</p> <p>16 ahead, Mr. Mitchell, and ask you a few questions, kind</p> <p>17 of circling back on some of your testimony from earlier.</p> <p>18 Please let me know if you are having trouble hearing me</p> <p>19 over the speaker phone. Okay?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. Great. Thank you.</p> <p>22 So you had testified earlier that there</p> <p>23 are currently four investigators on the elections team.</p> <p>24 Is that right?</p> <p>25 A. Yes, ma'am.</p>	<p style="text-align: right;">164</p> <p>1 A. Yes, ma'am. Statutorily back in 2008, the</p> <p>2 Attorney General's office had the responsibility of help</p> <p>3 coordinating, at -- at the state level, a mortgage fraud</p> <p>4 task force.</p> <p>5 Q. Uh-huh.</p> <p>6 A. And so some of those investigators -- that --</p> <p>7 that team has done a lot of mortgage fraud</p> <p>8 investigations, but some of the other fraud</p> <p>9 investigations that they get involved in are</p> <p>10 investigations of like, for instance, as I explained,</p> <p>11 crime victims' compensation fraud, where a claimant</p> <p>12 might submit fraudulent receipts to get crime victims'</p> <p>13 compensation benefits. Receipts could be something like</p> <p>14 for moving expenses that they didn't incur or re -- you</p> <p>15 know, rent that they didn't pay. So that's another</p> <p>16 example of fraud that they investigate.</p> <p>17 Q. Okay. Does that -- so does the fraud team also</p> <p>18 investigate any form of public benefits fraud?</p> <p>19 MR. CLAY: Objection; vague.</p> <p>20 THE WITNESS: If you're -- an example of a</p> <p>21 case that they just are -- are ramping up is a case</p> <p>22 involving a -- a -- an employee of the local housing</p> <p>23 development in Smithville, Texas. And the director of</p> <p>24 that organization was charged with stealing money from</p> <p>25 the -- the housing development, and so that's an example</p>

MAJOR FORREST MITCHELL

8/12/2014

43 (Pages 169 to 172)

<p style="text-align: right;">169</p> <p>1 have -- with four investigators, we are referral driven, 2 and that in and of itself is -- is more than enough work 3 for us to handle. 4 Q. (BY MS. CLARK) Why did you not reallocate any 5 of your investigators to the elections team? 6 MR. CLAY: Objection; form. 7 THE WITNESS: When specifically are you 8 talking about? 9 Q. (BY MS. CLARK) You mentioned that with four 10 investigators that referrals bring more than enough for 11 those four investigators to do, and I'm asking why you 12 did not make a decision to reallocate any investigators 13 to the elections team so that there could be more 14 investigations pursued within that unit. 15 MR. CLAY: Same objection. 16 THE WITNESS: I haven't really thought 17 about that. 18 Q. (BY MS. CLARK) Okay. So in the course of -- 19 of following up on a referral, if you come to believe 20 that an individual case may be part of a larger criminal 21 conspiracy or may be connected to other cases, would you 22 pursue an investigation of that based off of the 23 individual original referral? 24 MR. CLAY: Objection; form, vague. 25 THE WITNESS: Could you repeat that</p>	<p style="text-align: right;">171</p> <p>1 MR. CLAY: I'll object to the extent that 2 it would require Major Mitchell to divulge sensitive law 3 enforcement information. 4 To the extent it doesn't, you can answer. 5 THE WITNESS: Yes. Some of our 6 investigations have involved larger groups of 7 individuals but who may not have been criminally 8 charged. 9 Q. (BY MS. CLARK) Could you -- to the extent that 10 you're able to, could you explain in what way that 11 happens? 12 MR. CLAY: Again, to the extent that it 13 would require you to divulge sensitive law enforcement 14 information, you're instructed not to answer. 15 Otherwise, you can answer to the best of your ability. 16 THE WITNESS: Law enforcement officers may 17 receive information through contacting witnesses who 18 provide us with additional information that may not be 19 contained in the original allegation that was referred 20 to our office. 21 Q. (BY MS. CLARK) So -- 22 A. They may have -- may have additional criminal 23 activity that we weren't aware of. 24 Q. And are there any instances of that which 25 involve in-person voter impersonation fraud which are</p>
<p style="text-align: right;">170</p> <p>1 question one more time? 2 Q. (BY MS. CLARK) Of course. So, for example, 3 correct me if I'm wrong, but your testimony earlier was 4 that the elections team works off of referrals only. Is 5 that correct? 6 A. Yes, ma'am. 7 Q. So if in the process of a referral that had 8 come from perhaps the secretary of state's office or 9 from a local district attorney's office, and it was a 10 referral of a single case of some type of elections 11 fraud, if in the course of investigating that your 12 office came to suspect that that was part of a -- a 13 larger conspiracy or a -- was connected to other cases 14 that had not been referred to you, was that something 15 that you would pursue in an investigate -- in your 16 investigation? 17 MR. CLAY: Same objection. 18 THE WITNESS: And if we had reason to 19 believe the other criminal activity occurred in 20 connection to an investigation that we were already 21 conducting, we would investigate those allegations. 22 Q. (BY MS. CLARK) And has -- has -- has that ever 23 happened with any referral of -- of in-person voter 24 impersonation fraud? Has it ever led to a larger 25 investigation with multiple suspected incidences?</p>	<p style="text-align: right;">172</p> <p>1 not reflected on the sheets that you provided as part of 2 the document production in this matter, and which you 3 were testifying about earlier today? 4 MR. CLAY: Same objection, but you can 5 answer, I think, without divulging sensitive law 6 enforcement information at a -- at a general level, at 7 sort of a yes-or-no answer. 8 THE WITNESS: One more time, your 9 instruction. 10 MR. CLAY: I think you can answer at a 11 very general level. I think she's asking a yes-or-no 12 question. So I think an answer -- a yes-or-no answer 13 would not implicate any sensitive law enforcement 14 information. 15 THE WITNESS: Yes. 16 Q. (BY MS. CLARK) So can you -- sir, can you 17 please clarify your testimony with just, yes, there are 18 some large criminal conspiracy matters involving voter 19 impersonation fraud that are not reflected on this sheet 20 of Election Code referrals? 21 A. I apologize. Repeat -- 22 THE REPORTER: I'm sorry. Of election 23 "code" referrals or "vote" referrals? 24 THE WITNESS: All of our -- 25 MS. CLARK: Code.</p>

MAJOR FORREST MITCHELL

8/12/2014

44 (Pages 173 to 176)

<p style="text-align: right;">173</p> <p>1 THE REPORTER: Code, C-O-D-E?</p> <p>2 MS. CLARK: Yes.</p> <p>3 THE REPORTER: Thank you.</p> <p>4 THE WITNESS: For -- for purpose of</p> <p>5 clarification, all of the investigations would be listed</p> <p>6 on the referrals spreadsheet. There may be</p> <p>7 investigations that do not appear on the criminal</p> <p>8 prosecution's or charges pending's spreadsheet that</p> <p>9 involve voter impersonation. The reason they're not is</p> <p>10 because they haven't been charged or adjudicated.</p> <p>11 Q. (BY MS. CLARK) Okay. Thank you for that</p> <p>12 clarification.</p> <p>13 A. I apologize for the misunderstanding.</p> <p>14 Q. Okay. So, Mr. Mitchell, I believe you</p> <p>15 testified earlier that there are multiple ways to</p> <p>16 impersonate dead voters, and in that testimony you</p> <p>17 specifically discussed one case that was listed in the</p> <p>18 Election Code referral spreadsheet of -- of a woman</p> <p>19 named Mary Comparin. Are there other ways beyond the</p> <p>20 way that Mary Comparin impersonated a dead voter that</p> <p>21 you have seen?</p> <p>22 A. There is a case out of Harris County involving</p> <p>23 Jack Carol Crowder, III, which is on prosecutions</p> <p>24 resolved, to which I testified at my deposition and also</p> <p>25 at the trial. And in that case, he used his father's</p>	<p style="text-align: right;">175</p> <p>1 Q. In those circumstances, you -- they were</p> <p>2 detected by your office. Correct?</p> <p>3 A. Or they were detected prior to the referral to</p> <p>4 my office.</p> <p>5 Q. So that would not be undetected voter fraud.</p> <p>6 That would have been detected. Correct?</p> <p>7 A. That would have been detected fraud. Correct.</p> <p>8 Q. But there was insufficient information to -- to</p> <p>9 charge criminally. Correct?</p> <p>10 A. There's a -- a number of reasons why not to</p> <p>11 charge a criminal offense. One of -- one of which may</p> <p>12 be insufficient evidence.</p> <p>13 Q. What are the other reasons, Mr. Mitchell?</p> <p>14 A. Another reason may be prosecutorial discretion,</p> <p>15 would be another example. Culpable mental state. That</p> <p>16 culpable mental state wasn't there.</p> <p>17 Q. Any other reason?</p> <p>18 A. Not that I can think of right now.</p> <p>19 Q. Thank you. So, Mr. Mitchell, do you believe</p> <p>20 that SB14 will lead to an increase in voter</p> <p>21 impersonation fraud referrals to your office?</p> <p>22 A. I wouldn't think it would lead to a -- an</p> <p>23 increase of illegal voting, no, ma'am.</p> <p>24 Q. I'm sorry. I think there was a</p> <p>25 misunderstanding. I was just asking if SB14 will lead</p>
<p style="text-align: right;">174</p> <p>1 voter registration certificate to cast a ballot as if he</p> <p>2 were his deceased father.</p> <p>3 There have been -- the case involving</p> <p>4 what I testified today and previously where -- it's not</p> <p>5 a deceased person, but they used their voter</p> <p>6 registration certificate to vote as well. And the final</p> <p>7 way is through the use of mail-in ballot fraud.</p> <p>8 Q. Thank you. So -- so those three ways you just</p> <p>9 discussed are the -- are the only ways you have seen?</p> <p>10 A. Those are the only cases that we've charged.</p> <p>11 Q. Thank you. Mr. Mitchell, do you believe that</p> <p>12 there is undetected in-person voter impersonation fraud</p> <p>13 occurring in Texas?</p> <p>14 A. It is my opinion, yes.</p> <p>15 Q. And what is your source for that opinion?</p> <p>16 A. Having conducted criminal investigations, and</p> <p>17 then reviewing criminal investigations of my staff, over</p> <p>18 my tenure here at this office.</p> <p>19 Q. So could you be more specific, or it's just</p> <p>20 your general instinct?</p> <p>21 A. We -- we have conducted investigations that did</p> <p>22 not result in criminal charges, where we suspected voter</p> <p>23 impersonation occurred. And that is both through my</p> <p>24 experience as an investigator, investigating cases, and</p> <p>25 also as a supervisor reviewing investigative reports.</p>	<p style="text-align: right;">176</p> <p>1 to an increase in the number of referrals to your</p> <p>2 office. I'm sorry if that was unclear.</p> <p>3 A. No, ma'am. I -- I don't believe it will.</p> <p>4 Q. Okay. Thank you. And, Mr. Mitchell, are you</p> <p>5 aware that the -- the penalties for -- for voter</p> <p>6 impersonation fraud in Texas is a -- is a prison</p> <p>7 sentence of two to 20 years and up to a \$10,000 fine?</p> <p>8 A. Illegal voting, yes, ma'am, is a -- is a second</p> <p>9 degree felony, yes, ma'am.</p> <p>10 Q. Are you aware of any -- any federal law</p> <p>11 consequences to casting an illegal vote?</p> <p>12 A. No, ma'am.</p> <p>13 Q. Would -- are you aware of the fact that under</p> <p>14 federal law a nonUS citizen who commits voter fraud</p> <p>15 is -- is considered automatically deportable?</p> <p>16 A. No, ma'am.</p> <p>17 Q. And are you aware that a person who is</p> <p>18 prosecuted for voter fraud while ineligible to vote due</p> <p>19 to a felony conviction faces additional prison time for</p> <p>20 casting that ineligible vote?</p> <p>21 A. Are you talking federal statutes?</p> <p>22 Q. Yes.</p> <p>23 A. No. I'm not aware of federal statutes, ma'am.</p> <p>24 Q. Do -- do these penalties that we just discussed</p> <p>25 seem sufficiently severe to you?</p>

MAJOR FORREST MITCHELL

8/12/2014

45 (Pages 177 to 180)

<p style="text-align: right;">177</p> <p>1 MR. CLAY: Objection; form.</p> <p>2 THE WITNESS: I'm not sure what the</p> <p>3 penalty range as you've described under federal</p> <p>4 statutes.</p> <p>5 Q. (BY MS. CLARK) Let's just talk about the --</p> <p>6 the second degree felony for -- for this -- this</p> <p>7 Texas -- Texas state law that -- that you are familiar</p> <p>8 with. Does that seem sufficiently severe to you?</p> <p>9 MR. CLAY: Objection; foundation, form.</p> <p>10 THE WITNESS: I believe a second degree</p> <p>11 felony is a very serious offense in Texas, with a --</p> <p>12 with a severe punishment, with a wide range of -- a</p> <p>13 wind -- a wide range of sentencing latitude.</p> <p>14 Q. (BY MS. CLARK) So what kind of person do you</p> <p>15 think would risk what you would classify as a -- as a</p> <p>16 severe punishment for the low return of committing voter</p> <p>17 fraud?</p> <p>18 MR. CLAY: Objection; form.</p> <p>19 THE WITNESS: I can only speak to the</p> <p>20 people that -- the investigations that we've conducted</p> <p>21 and the investigations that -- that -- where we've</p> <p>22 identified witnesses and potentially even charged</p> <p>23 suspects. And we have had individuals who have voted</p> <p>24 illegally for as little as 5 to \$10, or who have voted</p> <p>25 for \$20 and risked that -- that punishment. So</p>	<p style="text-align: right;">179</p> <p>1 Mr. Mitchell. I have no more questions.</p> <p>2 MR. DUNBAR: Others on the phone?</p> <p>3 MR. ROSENBERG: Not from me.</p> <p>4 THE REPORTER: Who was --</p> <p>5 MR. GEAR: None for -- this is Bruce Gear.</p> <p>6 None for me.</p> <p>7 MR. DUNBAR: And I guess we've lost</p> <p>8 Scott.</p> <p>9 MR. BRAZIL: No, none from --</p> <p>10 MR. DUNBAR: Oh.</p> <p>11 MR. BRAZIL: -- Scott, from Scott</p> <p>12 Brazil.</p> <p>13 MR. DUNBAR: I think that's everyone,</p> <p>14 then. Correct?</p> <p>15 MR. GEAR: I think that's correct.</p> <p>16 MR. DUNBAR: I have a few follow-up</p> <p>17 questions on the documents. I don't know if you had any</p> <p>18 that you wanted to do -- how you wanted to sequence --</p> <p>19 MR. CLAY: Oh, no. Go ahead.</p> <p>20 MR. DUNBAR: Okay.</p> <p>21 MR. CLAY: If I have any --</p> <p>22 MR. DUNBAR: You'll do it --</p> <p>23 MR. CLAY: -- redirect, I'll do it after</p> <p>24 you're done.</p> <p>25 MR. DUNBAR: Okay. Great.</p>
<p style="text-align: right;">178</p> <p>1 there's -- there's a -- I mean, anybody is capable of --</p> <p>2 of committing the crime.</p> <p>3 Q. (BY MS. CLARK) So the -- the examples that you</p> <p>4 just mentioned, are those people included on the</p> <p>5 Election Code referrals spreadsheets that we were</p> <p>6 talking about earlier today?</p> <p>7 A. It would be listed in the referrals, yes,</p> <p>8 ma'am.</p> <p>9 Q. Thank you. And just -- just one more line of</p> <p>10 questioning for you, Mr. Mitchell. In -- earlier you</p> <p>11 had discussed -- earlier in your testimony you discussed</p> <p>12 the -- a referral from the secretary of state's office</p> <p>13 of, I think, a large number of supposed dead voters. I</p> <p>14 think maybe approximately 250 or so from July of 2012.</p> <p>15 Is that correct?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. And in your experience, your long experience in</p> <p>18 law enforcement and working in elections fraud, have</p> <p>19 instances of -- of dead people -- alleged dead people</p> <p>20 allegedly voting, has that been sometimes contributable</p> <p>21 to administrative error, whether at the county level in</p> <p>22 providing death records or perhaps at the federal level,</p> <p>23 the -- the Social Security index?</p> <p>24 A. Yes, ma'am.</p> <p>25 MS. CLARK: Okay. Thank you very much,</p>	<p style="text-align: right;">180</p> <p>1 FURTHER EXAMINATION</p> <p>2 BY MR. DUNBAR:</p> <p>3 Q. Let's see. I apologize if I'm a little</p> <p>4 disorganized here. I'm trying to make sense now of</p> <p>5 these new documents, and I think I have them greatly</p> <p>6 understood now, so I'm just going to hand them to you,</p> <p>7 three new exhibits, since these are stapled separately.</p> <p>8 (Exhibit Nos. 7 and 8 marked)</p> <p>9 Q. (BY MR. DUNBAR) Mr. Mitchell, I believe you</p> <p>10 should have two new exhibits. And just as a purely</p> <p>11 factual question, these appear to me to be May 1st, 2014</p> <p>12 versions of the charges pending portion of the SIU</p> <p>13 spreadsheet we've been talking about and the referrals</p> <p>14 portion. Is that correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And do you know, is there a May 1st, equivalent</p> <p>17 for the prosecutions resolved? I have a prosecutions</p> <p>18 resolved from April 24th, and I just don't know if</p> <p>19 that's the most recent, and I just want to make sure</p> <p>20 we're --</p> <p>21 A. I -- at the time these were produced, the April</p> <p>22 1 may have been the most recent one. As I -- I think I</p> <p>23 testified earlier today, we just had some convictions at</p> <p>24 the end of last month, and so there has been a more</p> <p>25 recent one prepared.</p>

MAJOR FORREST MITCHELL

8/12/2014

46 (Pages 181 to 184)

<p style="text-align: right;">181</p> <p>1 Q. Than -- more recent than April 24th?</p> <p>2 A. Yes, sir, I believe so.</p> <p>3 Q. Okay. It may be that it's somewhere in that</p> <p>4 vast warehouse. So why don't we -- why don't we</p> <p>5 admit -- why don't we use the 424, and then maybe I can</p> <p>6 just ask you questions about the result of prosecutions</p> <p>7 that might be different from that sheet.</p> <p>8 (Exhibit No. 9 marked)</p> <p>9 Q. (BY MR. DUNBAR) All right. And so starting</p> <p>10 with the -- starting with the May 1st, 2014 charges</p> <p>11 pending resolution spreadsheet -- and for those still</p> <p>12 listening on the phone, this is a document produced last</p> <p>13 night, I believe, TX0649837. And as compared to the</p> <p>14 February 2014 spreadsheet we were using earlier, can you</p> <p>15 tell me what the differences are?</p> <p>16 A. We're specifically talking about the charges</p> <p>17 pending?</p> <p>18 Q. Yes, sir.</p> <p>19 A. I believe the difference is that two of the</p> <p>20 Montgomery County defendants were convicted.</p> <p>21 Q. And which two? That -- it would be -- is that</p> <p>22 Margaret -- Roberta Margaret Cook and Sybil Lea Doyle?</p> <p>23 A. Yes, ma'am -- yes, sir. Yes, sir.</p> <p>24 Q. And so those would probably account, then, for</p> <p>25 the two -- to the extent there is a May 1st version of</p>	<p style="text-align: right;">183</p> <p>1 A. Yes, sir.</p> <p>2 Q. And which -- what are the names associated with</p> <p>3 those cases?</p> <p>4 A. I'm sorry. I don't have those available right</p> <p>5 now, but it's in Cameron County.</p> <p>6 Q. Do you know how many individuals were added?</p> <p>7 A. Six.</p> <p>8 Q. Six. And can you describe the general</p> <p>9 allegation -- the nature of the charges alleged in that</p> <p>10 case?</p> <p>11 A. Those are specifically a -- mail-in ballot</p> <p>12 violations and handling of mail-in ballots and</p> <p>13 unlawfully influencing or assisting voters --</p> <p>14 Q. Okay.</p> <p>15 A. -- with their mail-in ballot -- mail-in</p> <p>16 ballots.</p> <p>17 Q. So the charges have nothing to do with</p> <p>18 in-person voter impersonation. Correct?</p> <p>19 A. That's correct.</p> <p>20 MR. CLAY: Kelly, and to the extent that</p> <p>21 that's not in your documents, we're happy to get you an</p> <p>22 updated version of the charges pending --</p> <p>23 MR. DUNBAR: I appreciate it. I</p> <p>24 appreciate it. Yeah.</p> <p>25 MR. CLAY: -- that reflects those cases.</p>
<p style="text-align: right;">182</p> <p>1 the Prosecutions Resolved spreadsheet, the difference</p> <p>2 would be the addition of moving those two names from</p> <p>3 pending to resolved?</p> <p>4 A. Prosecutions resolved, yes, sir.</p> <p>5 Q. And I believe we discussed earlier that these</p> <p>6 charges as charged involved ineligible voter</p> <p>7 allegations. Is that correct?</p> <p>8 A. Yes, sir. That's correct.</p> <p>9 Q. So, again, it may very well be in the record.</p> <p>10 Those wouldn't -- those ineligible voter charges would</p> <p>11 not have encompassed allegations of in-person voter</p> <p>12 impersonation?</p> <p>13 A. No, sir. They were not charged for in-person</p> <p>14 voter impersonation.</p> <p>15 Q. Okay. And it looks like there are no new</p> <p>16 additions to the charges pending spreadsheet as of</p> <p>17 May 1st. Am I reading that correctly?</p> <p>18 A. As of May 1st. But as I -- I testified</p> <p>19 previously today, we did get some new cases filed that</p> <p>20 haven't -- that's one of the updates that -- the most</p> <p>21 recent update.</p> <p>22 Q. I see. So some folks have moved from the</p> <p>23 referrals category to the charges pending --</p> <p>24 A. Correct.</p> <p>25 Q. -- that aren't reflected here?</p>	<p style="text-align: right;">184</p> <p>1 MR. DUNBAR: I appreciate that. It may</p> <p>2 very well be it's there.</p> <p>3 MR. CLAY: Yeah.</p> <p>4 MR. DUNBAR: I may have missed it, but</p> <p>5 this testimony is just as -- just as helpful.</p> <p>6 Q. (BY MR. DUNBAR) So this -- this -- the</p> <p>7 May 1st -- well, the after May 1st version of the</p> <p>8 charges pending, the only difference that you're aware</p> <p>9 of in terms of additions is these -- are these six new</p> <p>10 individuals?</p> <p>11 A. Well, actually, I believe that there were --</p> <p>12 there was another trial in Montgomery County in late</p> <p>13 July.</p> <p>14 Q. Okay.</p> <p>15 A. So -- where additional defendants were</p> <p>16 convicted in the Montgomery County case.</p> <p>17 Q. So it's possible --</p> <p>18 A. That might have been moved additionally now to</p> <p>19 the prosecutions resolved.</p> <p>20 Q. So the -- those remaining cases, then, if I am</p> <p>21 understanding the state of play here, would be the</p> <p>22 Thomas Curry and William Bernsten?</p> <p>23 A. And the -- the Goeddertz case. Yes. Yes, sir.</p> <p>24 Q. The Goeddertz case. Okay. And those were all</p> <p>25 convictions, you said?</p>

MAJOR FORREST MITCHELL

8/12/2014

47 (Pages 185 to 188)

<p style="text-align: right;">185</p> <p>1 A. Two of them were -- two of them were convicted</p> <p>2 in late July and have now been moved to the prosecutions</p> <p>3 resolved.</p> <p>4 Q. And those were ineligible voter charges again.</p> <p>5 Correct?</p> <p>6 A. Correct.</p> <p>7 Q. So with respect to the re -- the updated</p> <p>8 referrals spreadsheet, which those on the phone is</p> <p>9 TX0649815, this is dated May 1st, 2014. Is it -- is it</p> <p>10 likely that there's a more recent version of this</p> <p>11 spreadsheet as well?</p> <p>12 A. Yes, sir.</p> <p>13 MR. DUNBAR: Okay. And, Reed, I just</p> <p>14 renew the request.</p> <p>15 MR. CLAY: Yeah. Absolutely.</p> <p>16 Q. (BY MR. DUNBAR) Focusing on the secretary of</p> <p>17 state referrals, and turning to Page 13, as best I can</p> <p>18 tell, it looks like there may be three new secretary of</p> <p>19 state referrals since the February 2014 spreadsheet.</p> <p>20 And those are the ones on the bottom from Bexar County.</p> <p>21 A. Yes, sir. Bexar County.</p> <p>22 Q. Ah. Got it. Thank you. And the allegation</p> <p>23 listed is abuse of official capacity, deputy voter</p> <p>24 reg -- registrar. What -- what does -- what does that</p> <p>25 signify?</p>	<p style="text-align: right;">187</p> <p>1 allegations that were provided in the referral --</p> <p>2 Q. Uh-huh.</p> <p>3 A. -- from the secretary of state's office.</p> <p>4 Q. Uh-huh.</p> <p>5 A. I don't know what all the allegations in that</p> <p>6 case may be eventually.</p> <p>7 Q. You don't know one way or the other, then,</p> <p>8 whether there could be --</p> <p>9 A. Correct.</p> <p>10 Q. -- in-person voter impersonation?</p> <p>11 And the second part of the referral</p> <p>12 spreadsheet again is the undated one, which makes it a</p> <p>13 little harder to tell what's new. But I'm looking at</p> <p>14 Page 21, which is TEX -- TX0649835. And, again, in</p> <p>15 terms of in-person voter impersonation, it looks like</p> <p>16 there's nothing different from the February 2014</p> <p>17 spreadsheet in terms of new referrals, unless I'm</p> <p>18 missing something. Do you agree?</p> <p>19 A. I would -- I would speculate -- I would believe</p> <p>20 that the last three entries would be new entries, since</p> <p>21 they involved the primary election, and that occurred in</p> <p>22 March.</p> <p>23 Q. In 2014?</p> <p>24 A. Yes, sir.</p> <p>25 Q. And those three -- again, the allegations as</p>
<p style="text-align: right;">186</p> <p>1 A. Under state law, we have deputy voter</p> <p>2 registrars who are basically volunteers who sign up to</p> <p>3 assist voters in their registration efforts throughout</p> <p>4 the state. Usually -- they're done usually county by</p> <p>5 county by county. You sign up with each county to serve</p> <p>6 as a volunteer deputy registrar to help register voters.</p> <p>7 As such, you're going to come into contact</p> <p>8 with voter information, and you're not allowed to record</p> <p>9 or document any kind of information off that voter</p> <p>10 registration application.</p> <p>11 Q. Uh-huh.</p> <p>12 A. And so abuse of official capacity is violating</p> <p>13 any law governing the office of deputy voter registrar.</p> <p>14 So one example is not documenting -- not copying what's</p> <p>15 on the voter registration application. Another</p> <p>16 violation would be not turning in a voter registration</p> <p>17 application, so...</p> <p>18 Q. I see. And so, again, the -- these referrals</p> <p>19 wouldn't have anything to do with in-person voter</p> <p>20 impersonation. Is that correct?</p> <p>21 MR. CLAY: Objection; vague.</p> <p>22 Q. (BY MR. DUNBAR) These three referrals don't</p> <p>23 involve allegations of in-person voter impersonation, as</p> <p>24 I understand your description. Is that correct?</p> <p>25 A. The -- this document specifically lists the</p>	<p style="text-align: right;">188</p> <p>1 they have come to you from other relate to mail-in</p> <p>2 ballot violation, false information on application for a</p> <p>3 place on a ballot, and false information on application</p> <p>4 for place on a ballot. At least based on those</p> <p>5 descriptions, we don't know one way or the other whether</p> <p>6 that would involve anything to do with in-person voter</p> <p>7 impersonation. Correct?</p> <p>8 A. Again, the spreadsheet just contains what that</p> <p>9 was referred to us.</p> <p>10 Q. And you don't know in your own head, not on the</p> <p>11 spreadsheet, whether that's true or false?</p> <p>12 A. As I sit here today, no.</p> <p>13 Q. Okay. And remind me what other means, in terms</p> <p>14 of source of referral.</p> <p>15 A. The other means elected -- I should say</p> <p>16 district -- district or county attorney, law</p> <p>17 enforcement, which includes state, local, or federal law</p> <p>18 enforcement officials, or an elections administrator in</p> <p>19 a geographical area.</p> <p>20 Q. All right. And then the Prosecutions Resolved</p> <p>21 spreadsheet that you think is more recent, that I don't</p> <p>22 have in my hands right now, but it seems like you may</p> <p>23 have a good handle of what would be on the most recent</p> <p>24 version if it was here, would reflect, as I understand</p> <p>25 it, the Montgomery County -- the successful Montgomery</p>

MAJOR FORREST MITCHELL

8/12/2014

48 (Pages 189 to 192)

<p style="text-align: right;">189</p> <p>1 County prosecutions. Is that right?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Would there be -- is there anything else that</p> <p>4 would be on that spreadsheet in terms of prosecutions</p> <p>5 resolved?</p> <p>6 A. No, sir.</p> <p>7 Q. That's -- that's new since the February 2012 --</p> <p>8 excuse me, 2014 version of the spreadsheet?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. All right. The final document is the</p> <p>11 one I need the most help with. I have my copy. Where</p> <p>12 did the other copies go?</p> <p>13 (Exhibit No. 10 marked)</p> <p>14 Q. (BY MR. DUNBAR) And, Major Mitchell, you've</p> <p>15 been handed what I believe is Exhibit 10, which is Bates</p> <p>16 Nos. TEX0650262 and TX0650261. Is this -- you -- you</p> <p>17 testified earlier -- well, let me backtrack. Can you</p> <p>18 tell me what this document is?</p> <p>19 A. As I testified to earlier, in response to this</p> <p>20 litigation, I spoke with my staff and my coworkers,</p> <p>21 including Sherry Papke (phonetic) and my office manager,</p> <p>22 Tamara Chandler, to request budget -- or cost printouts</p> <p>23 associated with election violation investigations and</p> <p>24 prosecutions that our office has conducted. And those</p> <p>25 printouts come out -- there -- there are many pages to</p>	<p style="text-align: right;">191</p> <p>1 what you would see on Exhibit 3 --</p> <p>2 Q. Uh-huh.</p> <p>3 A. -- which is an -- what we call an OAG case</p> <p>4 number.</p> <p>5 Q. Uh-huh.</p> <p>6 A. And the first two digits of that number are</p> <p>7 going to be the calendar year in which -- or fiscal year</p> <p>8 in which that investigation was opened.</p> <p>9 Q. Uh-huh.</p> <p>10 A. Investigation or prosecution was opened. And</p> <p>11 then the remaining numbers would be that file specific.</p> <p>12 So if you look at the first line, it says 13390344,</p> <p>13 State of Texas versus Duval, 2012 election.</p> <p>14 Q. Uh-huh.</p> <p>15 A. That is the OAG case file for that specific</p> <p>16 investigation and/or prosecution.</p> <p>17 Q. I guess what I'm confused about is I would -- I</p> <p>18 would have thought -- and we can look at the chart, but</p> <p>19 between 2000 and 2014, there would have been far more</p> <p>20 than ten Election Code prosecutions or investigations.</p> <p>21 Correct?</p> <p>22 A. The time frame again?</p> <p>23 Q. Well, I'm just going off the time frame -- the</p> <p>24 time frame at the top of this document. It says</p> <p>25 September 1st, 2000 through March 31st, 2014.</p>
<p style="text-align: right;">190</p> <p>1 that because it prints off each individual case number,</p> <p>2 as well as a total for the -- each division in the</p> <p>3 criminal prosecutions division and the criminal</p> <p>4 investigations law enforcement division.</p> <p>5 Q. Uh-huh.</p> <p>6 A. And so this appears to be one of the pages that</p> <p>7 show various case numbers, which are categorized in our</p> <p>8 mainframe as election violation investigations.</p> <p>9 Q. Uh-huh.</p> <p>10 A. And the top of the page it shows that the query</p> <p>11 period was from September 01, 2000 to March 31st of</p> <p>12 2014.</p> <p>13 Q. Uh-huh. And corresponds to fiscal year 2001</p> <p>14 through 2014, on the next line?</p> <p>15 A. Correct.</p> <p>16 Q. Is that correct? Okay. And so can you help</p> <p>17 me --</p> <p>18 A. I can further explain if you like.</p> <p>19 Q. Yes, please. So each -- I guess starting with</p> <p>20 the client, the client reference numbers on the left --</p> <p>21 the left-hand column, each of those unique numbers would</p> <p>22 refer to a particular prosecution?</p> <p>23 A. Or investigation.</p> <p>24 Q. Or investigation.</p> <p>25 A. So the client reference number is similar to</p>	<p style="text-align: right;">192</p> <p>1 A. Oh, yes. So there's -- there's more</p> <p>2 investigations or -- and/or prosecutions than this</p> <p>3 document.</p> <p>4 Q. Okay. So what -- what universe of cases is</p> <p>5 this document about?</p> <p>6 A. These are cases that are categorized as</p> <p>7 election violations. And the time frame that we're</p> <p>8 talking about for these two pages is 2013 through 2014.</p> <p>9 Q. Oh, I see. So although the top -- that's maybe</p> <p>10 what is confusing me. Although the dates at the top</p> <p>11 reflect September 1st, 2000, through March 31st, 2014,</p> <p>12 that's -- this document reflects a smaller universe than</p> <p>13 that?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Okay. And you can tell that from the client</p> <p>16 reference numbers. Is that what you're basing that on?</p> <p>17 A. Yes, sir.</p> <p>18 Q. So this, then, reflects -- this -- if I</p> <p>19 understand things correctly, this would reflect</p> <p>20 expenditures on Election Code investigations and</p> <p>21 prosecutions from some particular point in 2013 to 2014?</p> <p>22 A. For these specific case numbers.</p> <p>23 Q. How are those case numbers chosen? Do you</p> <p>24 know?</p> <p>25 A. I think our computer randomly generates the</p>

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF TEXAS
3 CORPUS CHRISTI DIVISION
4 MARC VEASEY, JANE HAMILTON,)
5 SERGIO DELEON, FLOYD J. CARRIER,))
6 ANNA BURNS, MICHAEL MONTEZ,)
7 PENNY POPE, OSCAR ORTIZ, KOBY)
8 OZIAS, JOHN MELLOR-CRUMMEY,)
9 JANE DOE, JOHN DOE, LEAGUE OF) CIVIL ACTION NO.
10 UNITED LATIN AMERICAN CITIZENS) 2:13-CV-193 (NGR)
11 (LULAC), AND DALLAS COUNTY,) (lead case)
12 TEXAS)
13)
14 VS.)
15)
16 RICK PERRY, Governor of Texas,)
17 and JOHN STEEN, Texas Secretary)
18 of State)
19 -----))
20)
21 UNITED STATES OF AMERICA,)
22)
23 V.)
24)
25 STATE OF TEXAS, JOHN STEEN, in) CIVIL ACTION NO.
26 his official capacity as Texas) 2:13-CV-263 (NGR)
27 Secretary of State, and STEVE) (consolidated case)
28 MCCRAW, in his official capacity)
29 as Director of the Texas)
30 Department of Public Safety,)
31 -----))
32)
33 TEXAS STATE CONFERENCE OF NACCP)
34 BRANCHES, AND THE MEXICAN)
35 AMERICAN LEGISLATIVE CAUCUS OF)
36 THE TEXAS HOUSE OF)
37 REPRESENTATIVES,)
38)
39 V.)
40)
41 JOHN STEEN, in his official) (consolidated case)
42 capacity as Texas Secretary of)
43 State, and STEVE MCCRAW, in his)
44 official capacity as Director of)
45 the Texas Department of Public)
46 Safety)
47)

<p style="text-align: right;">6</p> <p>1 DEBBIE NEWMAN, 2 having been first duly sworn, testified as follows: 3 EXAMINATION 4 BY MS. SIMSON: 5 Q. Can you go ahead and state your name for the 6 record, please? 7 A. Debra Dale Newman. Better known as Debbie 8 Newman. 9 Q. Okay. And are you the county clerk for Jasper 10 County? 11 A. I am. 12 Q. My name is Emma Simson. This is Chad Dunn. 13 We are the attorneys for the Veasey-LULAC plaintiffs in 14 the lawsuit over the photo ID law. 15 A. Okay. 16 Q. You understand you are not a party to this 17 lawsuit? 18 A. I understand. 19 Q. Have you ever been deposed before? 20 A. Yes, I have. 21 Q. How many times? 22 A. Once. 23 Q. What was the case about? 24 A. It was a car wreck that I was involved in. 25 Q. Okay. And were you a party to that?</p>	<p style="text-align: right;">8</p> <p>1 A. Thank you. 2 Q. So can you, first, start us off with a bit of 3 background about yourself, where you grew up, went to 4 school, past jobs? 5 A. I grew up in Jasper, Texas, been there seven 6 generations, been married to my husband for 44 years, 7 and four years of high school. 8 I worked for Seal, Stauffer, Cofield & 9 Busby law firm for 15 years. And I ran for county clerk 10 and been there ever since. That was in '99. 11 Q. You ran for county clerk in 1999? 12 A. Well, '98. 13 Q. '98. And you took the position in '99? 14 A. In '99. 15 Q. And did you run with a political party when 16 you ran for office? 17 A. I did. 18 Q. Which party was that? 19 A. Democrat. 20 Q. Okay. And were you opposed? 21 A. Yes. 22 Q. Okay. And so how often do you have to run for 23 re-election for county clerk? 24 A. Every four years. 25 Q. Every four years. So are you up for an</p>
<p style="text-align: right;">7</p> <p>1 A. Yes. 2 Q. And you were the plaintiff? 3 A. Correct. 4 Q. Okay. So you've been deposed once before, but 5 just to go over some ground rules that will make this go 6 smoothly. The first is if I ask you a question and you 7 don't understand, please let me know and I will try to 8 rephrase it so it makes sense. 9 A. I understand. 10 Q. Then the second is we try to avoid talking 11 over each other, because she's trying to get everything 12 down, so I will do my best to let you finish your answer 13 before I ask my next question, and I'll ask that you do 14 the same and wait until I finish a question before you 15 answer. 16 A. Understood. 17 Q. The next thing is that you have provided 18 verbal answers like you've been doing so far, just so 19 that she can get this down on the record. Does that 20 make sense? 21 A. Correct. 22 Q. And the last is I don't think this should take 23 too long, but if you need a break, please let me know, 24 and we'll finish up whatever line of questions we're on, 25 and we can take a break.</p>	<p style="text-align: right;">9</p> <p>1 election? 2 A. Well, actually three, you know. 3 Q. Okay. Have you had any past jobs, other than 4 county clerk, that related to elections in any way? 5 A. No. 6 Q. Okay. So you received a deposition notice for 7 today that asked you to bring some documents. Did you 8 bring any documents? 9 A. We brought what we had. 10 Q. Okay. 11 A. And I don't think it's really what you want. 12 Q. Okay. 13 A. I'm going to give you what Sheila has given 14 me, because this is more her expertise. 15 Q. Okay. And are these all of the documents that 16 are responsive to the request? 17 A. That's all we have. 18 Q. Okay. 19 A. You asked for -- 20 MS. HOUSTON: We had the simple ballot 21 already in those results right there, and she just had 22 me to do the summary of the constitutional run-off and 23 primaries. 24 A. But you wanted provisional, and we had none. 25 Q. (By Ms. Simson) Okay. Excellent. So you've</p>

<p style="text-align: right;">10</p> <p>1 been county clerk since 1999. What are the job</p> <p>2 responsibilities of county clerk?</p> <p>3 A. Well, they're huge. It's too enormous to go</p> <p>4 over in this deposition, but basically you order all the</p> <p>5 ballots, you get all the polling places, all the poll</p> <p>6 workers who are responsible for the poll watchers, the</p> <p>7 candidates, furnish them with forms.</p> <p>8 We do anyway. A lot of county clerks do</p> <p>9 not. We help them with their paperwork.</p> <p>10 Q. And are you responsible for voter registration</p> <p>11 as county clerk?</p> <p>12 A. Actually, my assistant, Sheila, is.</p> <p>13 Q. Okay. But you supervise her with voter</p> <p>14 registration?</p> <p>15 A. I supervise her.</p> <p>16 Q. Okay. So you mentioned -- when did your</p> <p>17 office begin work on implementing S.B. 14?</p> <p>18 And before we start that, when I say S.B.</p> <p>19 14, I'm referring to Senate Bill 14 that was passed in</p> <p>20 2011 and requires voters to present photo</p> <p>21 identification.</p> <p>22 A. Well first year was this year, or last year,</p> <p>23 our first year.</p> <p>24 MS. HOUSTON: This past year, I think</p> <p>25 wasn't it the first time, like actually had the -- like</p>	<p style="text-align: right;">12</p> <p>1 local radio, which is a big deal in our little town.</p> <p>2 And we had it locally.</p> <p>3 Everybody knew, you know. Small as our</p> <p>4 town is, we have an average of -- in a November election</p> <p>5 is 11,000 voters. In this one, we only had probably</p> <p>6 3,500. So we had not -- we had one person, one, that</p> <p>7 opposed showing their ID.</p> <p>8 Q. And when you say that person opposed showing</p> <p>9 their photo ID --</p> <p>10 A. They just said they didn't see why they had</p> <p>11 to, it was America.</p> <p>12 Q. Okay. And did they end up showing their ID?</p> <p>13 A. They did. Not an issue.</p> <p>14 Q. And then they cast a ballot?</p> <p>15 A. Yes, they did.</p> <p>16 Q. Okay. So you said an average in November</p> <p>17 elections you have about 11,000 voters?</p> <p>18 A. Yes.</p> <p>19 Q. Is that for maybe a November presidential</p> <p>20 election?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So the 3,500 this past November, how</p> <p>23 come that was --</p> <p>24 A. That was a primary.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">11</p> <p>1 by law, they had to show ID.</p> <p>2 Q. (By Ms. Simson) And do you recall when that</p> <p>3 was last year?</p> <p>4 A. That was in March.</p> <p>5 Q. In March?</p> <p>6 A. This March.</p> <p>7 Q. Okay. Do you remember if --</p> <p>8 A. No. Am I wrong? Correct me if I'm wrong.</p> <p>9 MS. HOUSTON: I was trying to remember</p> <p>10 which election it actually started.</p> <p>11 A. I know we did it in March.</p> <p>12 Q. (By Ms. Simson) Do you recall if you</p> <p>13 implemented S.B. 14 in November elections, November of</p> <p>14 2013?</p> <p>15 A. No, I do not remember.</p> <p>16 Q. And how did you find out that the county was</p> <p>17 supposed to start implementing S.B. 14?</p> <p>18 A. Through the Secretary of State.</p> <p>19 Q. Would that be through e-mail?</p> <p>20 A. Letters, and e-mail, and school.</p> <p>21 Q. Okay. And when you found out that the state</p> <p>22 was now implementing S.B. 14, what did your office have</p> <p>23 to do to prepare to implement S.B. 14 during elections?</p> <p>24 A. Well, we really didn't have to do -- other</p> <p>25 than advertise, we advertised, and we had it on our</p>	<p style="text-align: right;">13</p> <p>1 A. Primary. Democrat/Republican primary.</p> <p>2 Q. And was the primary in November or March?</p> <p>3 A. March.</p> <p>4 Q. So in the November 2013 elections, did you</p> <p>5 also have lower voter turnout?</p> <p>6 A. It's always lower in the primaries than</p> <p>7 November.</p> <p>8 Q. Okay.</p> <p>9 A. You're either going with a governor's race or</p> <p>10 the presidential race, then you have a good turnout.</p> <p>11 Q. Okay. So the governor's race and presidential</p> <p>12 elections are when you have a much higher turnout?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. So with S.B. 14, there were some</p> <p>15 changes to the identification requirements at the polls.</p> <p>16 And what did you have to do to train election workers?</p> <p>17 A. We put on a school.</p> <p>18 Q. A school, what do you mean by a school?</p> <p>19 A. We school them. We have them come to the</p> <p>20 courthouse, or we go to them, all our election workers,</p> <p>21 and we actually go through an election school. And we</p> <p>22 do this every election on what they are supposed to do.</p> <p>23 Q. And if a person has been an election worker in</p> <p>24 past elections, do they have to attend training every</p> <p>25 year?</p>

<p style="text-align: right;">14</p> <p>1 A. They do.</p> <p>2 Q. They do?</p> <p>3 A. Yes.</p> <p>4 Q. And when you say "school," can you describe</p> <p>5 this school?</p> <p>6 A. We actually go through the whole synopsis of</p> <p>7 how to hold the election, how to cast the ballot, how to</p> <p>8 handle the election worker -- I mean, the election --</p> <p>9 well, I can't think of the word now.</p> <p>10 The voter, the voter, how to handle them</p> <p>11 in any situation.</p> <p>12 Q. Okay. And is it -- so it's in person?</p> <p>13 A. Yes.</p> <p>14 Q. And about how many hours, or how many days is</p> <p>15 this school?</p> <p>16 A. We hold an election in Jasper that is -- we</p> <p>17 have five towns in our county. We hold one in Jasper,</p> <p>18 and we hold one in Buna. Buna is locally situated, you</p> <p>19 know, for everybody.</p> <p>20 And that makes it -- we have one at</p> <p>21 2:00 o'clock, we have one at 6:00 o'clock where</p> <p>22 everybody can attend.</p> <p>23 Q. So is it about a few hours?</p> <p>24 A. No, it runs about an hour-and-a-half, and then</p> <p>25 we have -- usually we have desserts.</p>	<p style="text-align: right;">16</p> <p>1 training after S.B. 14?</p> <p>2 A. Yes, we had to, you know, put that into</p> <p>3 perspective with everything. We had to make sure that</p> <p>4 everybody knew. And we emphasized it so -- it was so</p> <p>5 important, we emphasized it.</p> <p>6 Q. And emphasized that there is now a photo ID</p> <p>7 requirement?</p> <p>8 A. Yes.</p> <p>9 Q. To make sure they ask voters for ID?</p> <p>10 A. We also said, you know, if someone says,</p> <p>11 "Where do I get this, I don't have one," we would let</p> <p>12 them know that they could go to the local DPS.</p> <p>13 Q. And so you had to let the election workers</p> <p>14 know where the voters could go get IDs?</p> <p>15 A. Yes, we trained them.</p> <p>16 Q. Okay. And how many election workers, roughly,</p> <p>17 do you have in Jasper County?</p> <p>18 A. I would say 100.</p> <p>19 Q. Around 100?</p> <p>20 A. Around 100.</p> <p>21 Q. And did you have training materials that you</p> <p>22 used at the school?</p> <p>23 A. Yes.</p> <p>24 Q. And did you bring those with you today?</p> <p>25 A. No.</p>
<p style="text-align: right;">15</p> <p>1 Q. Okay. So people attend about an</p> <p>2 hour-and-a-half training. Do they also have to do a</p> <p>3 training on-line?</p> <p>4 A. They can choose to train on-line.</p> <p>5 Q. Okay.</p> <p>6 A. And some of them do do that.</p> <p>7 Q. So that's voluntary on-line?</p> <p>8 A. That's voluntary.</p> <p>9 Q. And so when you're at a polling place on</p> <p>10 election day, how many people are working at the poll?</p> <p>11 A. You have a mandatory three.</p> <p>12 Q. Mandatory three. And is there some person who</p> <p>13 is supervising?</p> <p>14 A. You have your judge, your alternate judge, and</p> <p>15 your election worker.</p> <p>16 Q. And those are the three people?</p> <p>17 A. And on the bigger ones, we have up to five to</p> <p>18 six.</p> <p>19 Q. Okay. And do they all attend the same</p> <p>20 training?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And who runs the training for the</p> <p>23 election workers?</p> <p>24 A. Myself, and Diana South.</p> <p>25 Q. Okay. And did you have to change your</p>	<p style="text-align: right;">17</p> <p>1 Q. Is that something if we --</p> <p>2 A. Well, we use the book that we get from the</p> <p>3 Secretary of State.</p> <p>4 Q. So you use exactly the materials they give?</p> <p>5 A. Exactly. And we also use a tape that is</p> <p>6 furnished by the Secretary of State. And then we just</p> <p>7 do a local person-to-person instructions.</p> <p>8 Q. Okay. And do you have any idea how many of</p> <p>9 the election workers do the voluntary on-line training?</p> <p>10 A. Not very many. I would say no more than five.</p> <p>11 Q. Is the content of the on-line training pretty</p> <p>12 similar to the content of your training?</p> <p>13 A. Yes.</p> <p>14 Q. At the end of your training --</p> <p>15 A. It's actually the tape, I'm sorry.</p> <p>16 Q. Okay.</p> <p>17 A. It's the tape that the Secretary of State</p> <p>18 provides, they just look at it on-line. Then they get a</p> <p>19 certificate.</p> <p>20 Q. And you also show the tape at the training?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. Do you do anything at the end of the</p> <p>23 training to make sure that election judges understood</p> <p>24 what you train them on?</p> <p>25 A. Yes. And if they don't, we go one-on-one</p>

<p style="text-align: right;">18</p> <p>1 personally with them.</p> <p>2 Q. And what do you do to figure out if they</p> <p>3 understood?</p> <p>4 A. They come up to us.</p> <p>5 Q. Okay. They will come up to you. But is there</p> <p>6 any kind of quiz at the end to see if they understood?</p> <p>7 A. No.</p> <p>8 Q. Do you think that you were successful in</p> <p>9 training election workers about S.B. 14?</p> <p>10 A. Yes.</p> <p>11 Q. And what makes you say that?</p> <p>12 A. Done it many, many years. And our election</p> <p>13 workers tend to be the same ones.</p> <p>14 Q. So you have people who come year after year?</p> <p>15 A. I actually have one 90 years old.</p> <p>16 Q. How long has he or she --</p> <p>17 A. She has been there for, I would say, 40 to 45</p> <p>18 years because I provide them with a pin, an election pin</p> <p>19 of how many years, and hers is huge, you know.</p> <p>20 Q. So other than training the poll workers, and</p> <p>21 other than educating voters, was there anything else you</p> <p>22 had to do to get ready for S.B. 14?</p> <p>23 A. We had to put it in the local newspapers.</p> <p>24 Q. Was that required, or was that something you</p> <p>25 decided to do?</p>	<p style="text-align: right;">20</p> <p>1 the driver's license database to find out which voters</p> <p>2 might lack ID?</p> <p>3 MS. HOUSTON: That lack ID, no, not to</p> <p>4 see who doesn't have ID.</p> <p>5 A. Not that, but they are corresponding, you</p> <p>6 understand.</p> <p>7 Q. (By Ms. Simson) How does it correspond?</p> <p>8 A. I have to let her speak for me because that's</p> <p>9 not something I do.</p> <p>10 Q. So you're not aware of how the driver's</p> <p>11 license database interacts --</p> <p>12 A. Well, I know that when she sends it into</p> <p>13 Austin. It can also be sent in from DPS, too, to</p> <p>14 Austin, and she knows whether it came from the DPS.</p> <p>15 MS. HOUSTON: Yeah, if they go to the DPS</p> <p>16 to get their driver's license, they can register to</p> <p>17 vote. That's what she's talking about.</p> <p>18 Q. (By Ms. Simson) But there wasn't after</p> <p>19 S.B. 14 went into effect, you never took, for example,</p> <p>20 the voter registration list for Jasper County to see if</p> <p>21 there may be people who lack a driver's license?</p> <p>22 MS. HOUSTON: No.</p> <p>23 A. I don't think. No, I don't think we have that</p> <p>24 option, do we? With their software.</p> <p>25 Q. (By Ms. Simson) Did the Secretary of State's</p>
<p style="text-align: right;">19</p> <p>1 A. I don't know if it was required or not.</p> <p>2 That's what we did. We put it on the local radio</p> <p>3 station, and our local radio personality tends to be</p> <p>4 very vocal on elections, so he helps a whole lot.</p> <p>5 Q. And who is that?</p> <p>6 A. Mike Lout.</p> <p>7 Q. And what's the radio station?</p> <p>8 A. KJAS.</p> <p>9 Q. And what's the newspaper?</p> <p>10 A. Jasper News Boy, Buna Beacon, and Kirbyville</p> <p>11 Banner.</p> <p>12 Q. Do you know if the radio station has coverage</p> <p>13 for the entire county, or is it only for Jasper City?</p> <p>14 A. No, they have coverage throughout the whole</p> <p>15 county, including parts of Sabine County.</p> <p>16 Q. Okay. Did you do any -- did you do anything</p> <p>17 else, like billboards, or signs on buses, or brochures</p> <p>18 in offices?</p> <p>19 A. We don't have a bus in our town, and</p> <p>20 billboards are too expensive for our budget.</p> <p>21 Q. Did you send letters to voters at all to</p> <p>22 inform them of the changes in the law?</p> <p>23 A. No.</p> <p>24 Q. Did Jasper County ever conduct any sort of</p> <p>25 database match between the voter registration list, and</p>	<p style="text-align: right;">21</p> <p>1 office ever offer to provide you with a list of people</p> <p>2 who may lack ID because they don't have a driver's</p> <p>3 license?</p> <p>4 A. Not that I'm aware.</p> <p>5 Q. Okay. Is that something that if the Secretary</p> <p>6 of State's office said to you, "We can run a match and</p> <p>7 tell you which of your voters may lack an ID," would</p> <p>8 that be something you would be interested in getting?</p> <p>9 MR. KEISTER: Object to form.</p> <p>10 Q. (By Ms. Simson) I should let you know, he may</p> <p>11 object from time to time. That's for the attorneys to</p> <p>12 work out later. You can answer after he does that.</p> <p>13 A. Would it be helpful?</p> <p>14 Q. Would it be --</p> <p>15 A. Is that what you're asking me?</p> <p>16 Q. If the Secretary of State's office said to</p> <p>17 you, "We can take your voter registration list and all</p> <p>18 your registered voters and see which of them appear to</p> <p>19 lack a driver's license, or may lack a driver's</p> <p>20 license," is that information you would have been</p> <p>21 interested in so you could, for example, send letters to</p> <p>22 those voters?</p> <p>23 A. It would be interesting to me, but I think it</p> <p>24 would be a privacy issue --</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">22</p> <p>1 A. -- for the voter.</p> <p>2 Q. Okay. Other than the radio ads and the</p> <p>3 newspaper ads, was there anything else that you did to</p> <p>4 educate voters?</p> <p>5 A. Also, there is on-line with the radio station.</p> <p>6 Q. The radio station's Web site had something?</p> <p>7 A. Yes. And our Web site also provided</p> <p>8 information.</p> <p>9 Q. That's the county clerk's office?</p> <p>10 A. No, the Jasper County.</p> <p>11 Q. Jasper County Web site. Anything else that</p> <p>12 you did to educate voters?</p> <p>13 A. No.</p> <p>14 Q. Did you have to -- so talking about the radio</p> <p>15 ads, do you recall when those were aired?</p> <p>16 A. No, because it was voluntary. It's not</p> <p>17 something we paid for.</p> <p>18 Q. Okay. So you did not have to pay for the</p> <p>19 radio ads?</p> <p>20 A. Huh-uh.</p> <p>21 Q. And is -- do you have -- do you frequently</p> <p>22 have the radio volunteer to put things on the radio</p> <p>23 station for you?</p> <p>24 A. Yes. But they're non-biased.</p> <p>25 Q. And in the newspaper, did you have to pay to</p>	<p style="text-align: right;">24</p> <p>1 assistant, because she handles that.</p> <p>2 Q. So you're not sure if the county placed an ad</p> <p>3 about photo ID in the newspaper?</p> <p>4 A. I am 90 percent they did.</p> <p>5 Q. They did, or did not?</p> <p>6 A. Did.</p> <p>7 Q. Okay. And the radio ads that you mentioned</p> <p>8 that were voluntary by the radio station, were those</p> <p>9 about elections, or were those about photo ID?</p> <p>10 A. Elections.</p> <p>11 Q. Okay. So they didn't specifically advertise</p> <p>12 you need a photo ID to vote now?</p> <p>13 A. No, it was voluntary on the radio station.</p> <p>14 Q. Was there any education or outreach to voters</p> <p>15 specifically about the photo ID law?</p> <p>16 A. I would say no.</p> <p>17 Q. Okay. Do you know if there was any education</p> <p>18 to voters about the election identification</p> <p>19 certification, or the EIC?</p> <p>20 A. Not that I'm aware of.</p> <p>21 Q. And when I say the EIC, do you know what I'm</p> <p>22 referring to?</p> <p>23 A. No, I really don't.</p> <p>24 Q. Okay. Are you aware that under S.B. 14 there</p> <p>25 is a free election ID that voters can obtain called an</p>
<p style="text-align: right;">23</p> <p>1 place those ads?</p> <p>2 A. Yes.</p> <p>3 Q. And do you recall how much that cost?</p> <p>4 A. All three are different prices. Jasper being</p> <p>5 the highest at around \$100. Kirbyville being -- the</p> <p>6 other two being probably 60, 40.</p> <p>7 Q. And so did you -- and you didn't have to pay</p> <p>8 the radio anything to put the ad up on the Web site?</p> <p>9 A. No.</p> <p>10 Q. Okay. And on the radio station, was that kind</p> <p>11 of a public service announcement, or an --</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And so you spent, it sounds like, a few</p> <p>14 hundred dollars on newspaper ads. Do you recall when</p> <p>15 those were placed?</p> <p>16 A. It's mandatory when you have to place them.</p> <p>17 We placed them upon -- when the Secretary of State told</p> <p>18 us to.</p> <p>19 Q. So these were notices -- the notices in the</p> <p>20 newspaper, were they about photo ID, or were they about</p> <p>21 elections?</p> <p>22 A. They were about elections, but we also -- we</p> <p>23 also put a separate ad in ourself, I do believe. Am I</p> <p>24 correct on that?</p> <p>25 Diana would have to answer that, my chief</p>	<p style="text-align: right;">25</p> <p>1 election identification certificate?</p> <p>2 A. I'm not. Were you?</p> <p>3 MS. HOUSTON: What I was told, they could</p> <p>4 go to the DPS office to get a photo ID. That was</p> <p>5 supposed to be free.</p> <p>6 Q. (By Ms. Simson) And you're aware of this?</p> <p>7 A. I am.</p> <p>8 Q. But you're not sure if that's the election</p> <p>9 identification certificate?</p> <p>10 A. It's a photo ID.</p> <p>11 Q. Okay. And is the -- as far as you're aware,</p> <p>12 is the Department of Public Safety the only place that a</p> <p>13 person can obtain -- is the Department of Public Safety</p> <p>14 office the only place a person can obtain one of the</p> <p>15 free IDs for voting?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know how many locations there are in</p> <p>18 Jasper County for driver's license offices?</p> <p>19 A. One.</p> <p>20 Q. One?</p> <p>21 A. Yes.</p> <p>22 Q. And is that located in Jasper?</p> <p>23 A. Jasper.</p> <p>24 Q. Okay. Do you know if Jasper County ever had</p> <p>25 mobile EIC units to offer the free photo IDs?</p>

26

1 A. No. They -- we were told that they were going
2 to be, but never had one.

3 Q. Do you know why there never was one?

4 A. No.

5 MS. SIMSON: Can we go off the record for
6 one second?

7 (Recess from 3:32 p.m. to 3:34 p.m.)

8 Q. (By Ms. Simson) So the Department of Public
9 Safety office in Jasper County, is that accessible by
10 public transportation?

11 A. We do not have public transportation. What
12 are you talking about? A bus or a taxi? We have one
13 taxi.

14 Q. A bus.

15 A. No, we have no buses.

16 Q. Is there any public transportation in Jasper
17 County?

18 A. There's a taxi service.

19 Q. And what is the taxi service?

20 A. I don't know the name of it.

21 Q. Do you know can people get the taxi for free?

22 A. No.

23 Q. Okay. Do you have any idea how much it cost?

24 A. I think \$5.

25 Q. And they can go anywhere in the county with

27

1 that?

2 A. Well, not anywhere. Our county is 72 miles
3 long, from one end to the other. So -- it's very long
4 and narrow, so they could not travel that far.

5 Q. And are you -- so you didn't have to pay for
6 the radio ads, you had to pay a few hundred dollars for
7 the newspaper ads. Is there any other cost that you had
8 related to implementing S.B. 14?

9 A. When you say not very much -- when you say not
10 very much, it's more than that, because you have to
11 advertise for early voting, and you have to advertise
12 for the day of voting.

13 It adds up to more than a few hundred.

14 It adds up more to like a thousand, which is a lot.

15 Q. Those ads weren't about photo ID, though;
16 correct?

17 A. We had some that were --

18 Q. Okay.

19 A. -- about photo ID. It might not have been a
20 huge ad, but we did have the ad that I -- I'm pretty
21 sure.

22 Q. Did the county do any advertising about the
23 availability of free voter IDs?

24 A. Not that I'm aware.

25 Q. Did you work with any community groups to

28

1 educate voters about the photo ID law?

2 A. We worked with local ministers.

3 Q. And how did you contact the local ministers?

4 A. We -- we're so small that we're very close

5 with the community. And then most of our polling places
6 are at churches, so we would have -- pass that
7 information on to that pastor, preacher.

8 Q. Do you recall which of the pastors, preachers,
9 ministers that you talked with about the photo ID law?

10 A. I would say just about every one of them. I
11 would say 50 percent, let me just put it like that.

12 Q. Okay.

13 A. We have 20 polling places.

14 Q. Okay. And I think you mentioned earlier --
15 hopefully, this was while we were doing -- while we were
16 on the deposition, but about how many people are in
17 Jasper County?

18 A. About 35,000.

19 Q. And how many registered voters do you have?

20 A. Around 20.

21 Q. And -- 20,000?

22 A. Yes.

23 Q. Okay. Do you think that you were successful
24 in educating voters about the photo ID law?

25 A. I think it could have been better.

29

1 Q. And why do you say that?

2 A. Because you have brought it to my attention.

3 Q. Which aspect of it?

4 A. I think we should have done more.

5 Q. To educate voters?

6 A. Yes.

7 Q. What do you think you might have done to
8 educate voters, if you had more time or money?

9 A. I think we could have done some radio ads,
10 more -- our town is more into radio, and the on-line.
11 That on-line goes out all over the world. And I think
12 we could have done more with that.

13 Q. And was it just you -- maybe you hadn't
14 thought about voters, or it was a cost issue?

15 A. We have a real big cost issue.

16 Q. And so you don't have a lot of money to spend
17 on education?

18 A. No, we don't.

19 Q. Did the Secretary of State's office ever offer
20 to give you money to educate voters about the photo ID
21 law?

22 A. Not that I'm aware.

23 Q. Did you ever request that from the Secretary
24 of State's office?

25 A. No.

<p style="text-align: right;">30</p> <p>1 Q. Are you aware of what any other counties have</p> <p>2 done to educate voters about the photo ID law?</p> <p>3 A. No.</p> <p>4 Q. Okay. So you mentioned -- I believe you</p> <p>5 mentioned earlier that there were no provisional ballots</p> <p>6 cast because of an ID issue?</p> <p>7 A. No.</p> <p>8 Q. And that's during any of the elections that</p> <p>9 S.B. 14 has been in effect?</p> <p>10 A. Correct.</p> <p>11 Q. Now, the free photo ID cards that are -- that</p> <p>12 voters may obtain, these are called the election</p> <p>13 identification certificates. I may refer to them as</p> <p>14 EICs. Does the county have the authority to issue those</p> <p>15 IDs?</p> <p>16 A. No.</p> <p>17 Q. Are you aware if other counties have the</p> <p>18 authority to issue those IDs?</p> <p>19 A. No.</p> <p>20 Q. Have you ever asked the Secretary of State's</p> <p>21 office if you could get authority to issue those IDs?</p> <p>22 A. No.</p> <p>23 Q. If I told you that some other counties have</p> <p>24 the authority to issue these free voter ID cards, is</p> <p>25 that something you would be interested in being able to</p>	<p style="text-align: right;">32</p> <p>1 A. No.</p> <p>2 Q. So as far as you're aware, there were never</p> <p>3 any mobile units to issue free voter IDs in Jasper</p> <p>4 County?</p> <p>5 A. No.</p> <p>6 Q. Okay. Did you ever testify in front of the</p> <p>7 legislature about voter ID laws?</p> <p>8 A. No.</p> <p>9 Q. Did you ever talk to any legislators about</p> <p>10 them?</p> <p>11 A. No.</p> <p>12 Q. Has anyone from the Secretary of State's</p> <p>13 office ever contacted you to ask for feedback about how</p> <p>14 the voter ID law was implemented?</p> <p>15 A. No.</p> <p>16 Q. Has anyone from DPS ever contacted you about</p> <p>17 the availability of free voter ID cards at their office?</p> <p>18 A. No.</p> <p>19 Q. Has anyone from DPS ever contacted you about</p> <p>20 voters who needed IDs?</p> <p>21 A. No.</p> <p>22 Q. Has anybody at DPS -- have you had any</p> <p>23 conversations with anybody at DPS about voter ID?</p> <p>24 A. Only on a personal level, and it's not -- it</p> <p>25 would not be in my capacity as county clerk.</p>
<p style="text-align: right;">31</p> <p>1 do?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know if DPS in Jasper -- do you know if</p> <p>4 the DPS office in Jasper ever did extended hours for</p> <p>5 people who may need to get an ID to vote?</p> <p>6 A. Absolutely not.</p> <p>7 Q. Okay. So you don't think they ever opened on</p> <p>8 Saturdays to offer photo ID?</p> <p>9 A. Absolutely not. We don't want to go there.</p> <p>10 Q. What do you mean by that?</p> <p>11 A. No comment.</p> <p>12 Q. Okay. The mobile EIC units that you mentioned</p> <p>13 before, you said the Secretary of State's office may</p> <p>14 have offered them, but it never happened, or you never</p> <p>15 heard anything; is that correct?</p> <p>16 A. Our Congressman James White's office brought</p> <p>17 it to our attention, but we didn't hear anything else,</p> <p>18 didn't know anything else about it.</p> <p>19 Q. So the Congressman brought to your attention</p> <p>20 the possibility of having a mobile EIC station, but you</p> <p>21 didn't hear anything from the Secretary of State's</p> <p>22 office?</p> <p>23 A. We didn't hear anything else, period.</p> <p>24 Q. Okay. Did you -- are you aware that other</p> <p>25 counties had mobile EIC units available to them?</p>	<p style="text-align: right;">33</p> <p>1 Q. And what was the nature of those</p> <p>2 conversations? Who was the person at DPS?</p> <p>3 A. I'd rather not say.</p> <p>4 Q. What was the content -- what was the kind of</p> <p>5 content of those conversations?</p> <p>6 A. It's a large job. There's only two women</p> <p>7 there for the whole county.</p> <p>8 Q. So did they express concerns about their</p> <p>9 capacity to issue free voter IDs?</p> <p>10 A. Yes.</p> <p>11 Q. They did?</p> <p>12 A. On a personal level, not as -- in their work</p> <p>13 capacity.</p> <p>14 Q. Certainly. Have you spoken with anyone from</p> <p>15 the Secretary of State's office at any time about</p> <p>16 S.B. 14?</p> <p>17 A. I have not. Now, some of my staff may have.</p> <p>18 Q. Okay. Is that -- if one of your staff has a</p> <p>19 concern about S.B. 14, is that something they would</p> <p>20 bring to you?</p> <p>21 A. They normally will bring it to me, but they</p> <p>22 will also take charge.</p> <p>23 Q. But to your knowledge, nobody on your staff</p> <p>24 has spoken with anyone at the Secretary of State's</p> <p>25 office about the implementation of S.B. 14?</p>

<p style="text-align: right;">38</p> <p>1 Q. Okay. What is your understanding of -- when a</p> <p>2 person presents an ID --</p> <p>3 A. Well, it would state your name and address,</p> <p>4 but it wouldn't have -- it wouldn't have Social Security</p> <p>5 number, or the last four digits of the Social Security</p> <p>6 number, or -- that's all.</p> <p>7 Q. Are you familiar with a requirement that</p> <p>8 this -- that the information, though, on a person's ID,</p> <p>9 such as their name, is supposed to be substantially</p> <p>10 similar to the information on the poll book?</p> <p>11 A. Yes.</p> <p>12 Q. And who makes -- when a voter comes in to</p> <p>13 vote, what do they do? They hand their ID to an</p> <p>14 election worker?</p> <p>15 A. Their ID, or their voter registration card.</p> <p>16 Q. Okay. And so if they hand over their voter</p> <p>17 registration card, what happens next?</p> <p>18 A. They are able to vote.</p> <p>19 Q. Okay. If they hand over their driver's</p> <p>20 license, what happens?</p> <p>21 A. They are able to vote.</p> <p>22 Q. And does the election worker look them up in</p> <p>23 the system, or how do they --</p> <p>24 A. Yes.</p> <p>25 Q. And what do they do, they take the ID?</p>	<p style="text-align: right;">40</p> <p>1 A. Their -- of course, physical picture, and</p> <p>2 their name and address and all, needs to match up with</p> <p>3 our poll, the poll books.</p> <p>4 Q. If an election worker said the information on</p> <p>5 your ID is not substantially similar to the information</p> <p>6 on the poll book, what happens?</p> <p>7 A. They would vote provisionally.</p> <p>8 Q. Okay. And is there -- if the election clerk</p> <p>9 makes the decision that the person does not have a</p> <p>10 substantially-similar ID, would anybody check that</p> <p>11 before they make the person vote provisionally?</p> <p>12 A. Well, they might on occasion call Sheila and</p> <p>13 make sure that they are on there or not. But then we</p> <p>14 would let them vote provisionally.</p> <p>15 Then that would go, you know, into after</p> <p>16 the election whether it was counted or not.</p> <p>17 Q. Okay.</p> <p>18 A. It's put in a sealed envelope.</p> <p>19 Q. What kind of guidance did you give to election</p> <p>20 workers about how to make a determination if an ID was</p> <p>21 substantially similar to the voter registration list?</p> <p>22 A. We just visited with them one-on-one, and we</p> <p>23 made it very important, as much as, "Don't let your</p> <p>24 sister vote unless you have their photo ID." We really</p> <p>25 pressed those issues.</p>
<p style="text-align: right;">39</p> <p>1 A. We have both. We have the electronic poll</p> <p>2 books, and we also have the book itself. But the last</p> <p>3 election we went strictly -- we bought enough poll books</p> <p>4 to go strictly to the poll book.</p> <p>5 Q. When you say go straight to the poll book,</p> <p>6 what do you mean?</p> <p>7 A. It's an electronic poll book.</p> <p>8 Q. Okay. So they would look them up in an</p> <p>9 electronic poll book?</p> <p>10 A. Yes. And if they didn't find them, they would</p> <p>11 call Sheila.</p> <p>12 Q. Okay. So make sure that they are not somehow</p> <p>13 missing any error?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. And when they -- let's say somebody</p> <p>16 hands over their voter registration card. Does the</p> <p>17 election worker then ask them for a photo ID?</p> <p>18 A. Yes.</p> <p>19 Q. Since Jasper is such a small county, are there</p> <p>20 times when the person might just say --</p> <p>21 A. No, not even their mother.</p> <p>22 Q. Okay. And so if you hand over your ID, what</p> <p>23 is the information that the election workers are told</p> <p>24 they are supposed to check against the voter</p> <p>25 registration cards?</p>	<p style="text-align: right;">41</p> <p>1 Q. And if -- so if a person shows up and the name</p> <p>2 on their ID, and the date of birth, and the address</p> <p>3 don't match what's on the voter registration list, would</p> <p>4 that person vote a regular ballot or a provisional</p> <p>5 ballot?</p> <p>6 A. Provisionally, which would also correct any --</p> <p>7 that's like re-registering or registering to vote when</p> <p>8 you vote provisionally.</p> <p>9 Q. So when you vote provisionally because you do</p> <p>10 not have a photo ID, what do you have to do to make sure</p> <p>11 your vote is counted?</p> <p>12 A. It goes -- they have a chance to bring in a</p> <p>13 proper ID.</p> <p>14 Q. Okay. And if a person's name doesn't match</p> <p>15 exactly between their ID and the poll book, what does</p> <p>16 the voter have to do to vote a regular ballot?</p> <p>17 A. What do you mean?</p> <p>18 Q. Let me rephrase that. If a person comes in</p> <p>19 and they present an ID, and they don't have an exact</p> <p>20 match between the name on their ID and the name on the</p> <p>21 poll book -- let's say their middle name is on one and</p> <p>22 it's not included in the other. Is there anything that</p> <p>23 person has to do to vote a regular ballot?</p> <p>24 A. I would think in that instance, they would</p> <p>25 have to vote provisionally.</p>

<p style="text-align: right;">42</p> <p>1 Q. If there is not an exact name match?</p> <p>2 A. It would have to be really off.</p> <p>3 Q. So a pretty big difference?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Did the county give poll workers any</p> <p>6 examples of maybe an ID and information on the poll book</p> <p>7 and say, when a voter shows up with information like</p> <p>8 this, you should accept them to vote a regular ballot,</p> <p>9 or you should tell them they have to vote a provisional</p> <p>10 ballot?</p> <p>11 A. Not that I'm aware of.</p> <p>12 Q. Okay. Did the county provide election workers</p> <p>13 with anything like a list of nicknames, for instance,</p> <p>14 for Hispanic names --</p> <p>15 A. No.</p> <p>16 Q. -- so that they had a sense of the nicknames?</p> <p>17 A. The Secretary of State did send some examples.</p> <p>18 Q. So the Secretary of State --</p> <p>19 A. Like William and Bill.</p> <p>20 Q. Right. So the Secretary of State's office</p> <p>21 sent some examples, but the county didn't come up with</p> <p>22 any additional ones?</p> <p>23 A. We passed that information on to our -- during</p> <p>24 the school.</p> <p>25 Q. So you gave the Secretary of State's</p>	<p style="text-align: right;">44</p> <p>1 A. Yes.</p> <p>2 Q. Do you issue certified copies of marriage</p> <p>3 licenses?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know how much those cost?</p> <p>6 A. We just went up. Eight.</p> <p>7 Q. \$8?</p> <p>8 A. Uh-huh.</p> <p>9 Q. And is that only issued -- how many office</p> <p>10 locations do you have?</p> <p>11 A. We have one in Jasper, and we have a satellite</p> <p>12 office in Buna.</p> <p>13 Q. So would a person have to go in person to one</p> <p>14 of those offices?</p> <p>15 A. They would have to go to Jasper to obtain that</p> <p>16 information.</p> <p>17 Q. They would have to go to Jasper?</p> <p>18 A. Uh-huh.</p> <p>19 Q. And can you only issue --</p> <p>20 A. I'm sorry. No, I'm completely wrong on that.</p> <p>21 We do not. We only have Jasper. That is in our</p> <p>22 building thoughts to have a satellite location.</p> <p>23 Q. Okay. So right now you only have one office?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. So if a person needed a certified copy</p>
<p style="text-align: right;">43</p> <p>1 information to the election clerks?</p> <p>2 A. Yes.</p> <p>3 Q. But the county didn't provide any additional</p> <p>4 examples?</p> <p>5 A. No.</p> <p>6 Q. Okay. And the county did not provide any sort</p> <p>7 of list of common nicknames for various names, or</p> <p>8 anything like that?</p> <p>9 A. We did have that -- like I said, we passed it</p> <p>10 on verbally.</p> <p>11 Q. From the Secretary of State's office?</p> <p>12 A. Yes.</p> <p>13 Q. Have you had any complaints from constituents</p> <p>14 about the photo ID law?</p> <p>15 A. No.</p> <p>16 Q. Have you had any election workers complain to</p> <p>17 you about having to implement S.B. 14?</p> <p>18 A. Yes.</p> <p>19 Q. And what were those complaints?</p> <p>20 A. Well, it's just extra work.</p> <p>21 Q. And when they say it's extra work, why is it</p> <p>22 extra work?</p> <p>23 A. I don't know. They're old and contrary.</p> <p>24 Q. The county clerk's office issues various</p> <p>25 records; is that correct?</p>	<p style="text-align: right;">45</p> <p>1 of their marriage license, they would go to Jasper?</p> <p>2 A. Yes.</p> <p>3 Q. And can you only issue certified copies of</p> <p>4 marriage licenses if they were married in Jasper County?</p> <p>5 A. Yes.</p> <p>6 Q. So you don't have the ability to look up other</p> <p>7 counties in Texas?</p> <p>8 A. No, only on birth.</p> <p>9 Q. Is there any sort of waiver if a person comes</p> <p>10 in and says, "I need a certified copy of my marriage</p> <p>11 license but I can't afford it"?</p> <p>12 A. No.</p> <p>13 Q. On the birth certificates, you also issue</p> <p>14 certified copies of birth certificates; is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. And how much do those cost?</p> <p>17 A. Twenty-three.</p> <p>18 Q. And that would also be available only at the</p> <p>19 one county office?</p> <p>20 A. Yes.</p> <p>21 Q. And I believe you said that you can look that</p> <p>22 up for anywhere in the state?</p> <p>23 A. Anywhere in the state, unless it's a delayed</p> <p>24 birth, something like that. We can't do delayed births,</p> <p>25 or if the name is too long, we can't issue it.</p>

<p style="text-align: right;">46</p> <p>1 Q. If the name is too long, you cannot issue it?</p> <p>2 A. Yes.</p> <p>3 Q. How come?</p> <p>4 A. We can issue it on our part as far as on the</p> <p>5 paper, but we can't do it from the secretary -- from the</p> <p>6 state's part because the forms just will not allow the</p> <p>7 printer to do it.</p> <p>8 Q. So if you printed one of these, would it be</p> <p>9 considered a certified copy?</p> <p>10 A. I'm sorry, I don't understand.</p> <p>11 Q. If somebody's name is too long and they come</p> <p>12 in saying, "I need a certified copy of my birth</p> <p>13 certificate," can you issue one?</p> <p>14 A. No. Not unless -- I can issue it if it's in</p> <p>15 Jasper County, but if it's from another county, like</p> <p>16 Harden County, Newton County, something like that, it</p> <p>17 won't let us print that out.</p> <p>18 Q. Okay.</p> <p>19 A. They have to go back -- or delayed birth, they</p> <p>20 have to go back to the county they were born in.</p> <p>21 Q. So if somebody was born outside of Jasper</p> <p>22 County, you would have to look that up in the Secretary</p> <p>23 of State, and if the name is too long, you can't print</p> <p>24 it?</p> <p>25 A. Uh-huh.</p>	<p style="text-align: right;">48</p> <p>1 and their brothers. And there's been occasions where</p> <p>2 I've married and buried them.</p> <p>3 Q. So there have been instances in the past where</p> <p>4 you've paid for someone to get a birth certificate</p> <p>5 because they needed one?</p> <p>6 A. Yeah.</p> <p>7 Q. So you -- in your experience, there are people</p> <p>8 in the state who don't have birth certificates?</p> <p>9 A. I would say yes.</p> <p>10 Q. Okay. If a person --</p> <p>11 A. Can I make an objection? Why are we on</p> <p>12 marriage licenses and not voter ID?</p> <p>13 Q. Well, are you aware that to get a free voter</p> <p>14 ID, voters have to present certain documents to get one?</p> <p>15 A. Yes.</p> <p>16 Q. And do you know which documents those are?</p> <p>17 A. Well, yes, I do. And birth certificate is</p> <p>18 one.</p> <p>19 Q. And are you aware that if a person's name has</p> <p>20 changed since birth, that they might have to provide</p> <p>21 both a certified copy of their birth certificate and</p> <p>22 something else?</p> <p>23 A. Okay, I gotcha.</p> <p>24 Q. Okay. But if you have questions, please feel</p> <p>25 free to let me know.</p>
<p style="text-align: right;">47</p> <p>1 Q. Are you familiar that the state has waived or</p> <p>2 has reduced the fees for birth certificates if the</p> <p>3 person is using the birth certificate to get a free</p> <p>4 voter ID?</p> <p>5 A. No, I'm not.</p> <p>6 MS. HOUSTON: Yeah.</p> <p>7 A. She knows more than I do.</p> <p>8 Q. (By Ms. Simson) So you were not previously</p> <p>9 aware that the state has reduced the fees for birth</p> <p>10 certificates?</p> <p>11 A. No.</p> <p>12 Q. So --</p> <p>13 A. On occasion, I pay for them myself.</p> <p>14 Q. You pay for people to get birth certificates?</p> <p>15 A. If there is a situation, I will pay for it</p> <p>16 myself.</p> <p>17 Q. And has that come up in the past?</p> <p>18 A. Yes. I know everybody.</p> <p>19 Q. And what were the reasons the person didn't</p> <p>20 have a birth certificate?</p> <p>21 A. They may never have gotten one. They may be</p> <p>22 very poor. And there is -- they don't know who to go to</p> <p>23 or where to go to to get any assistance.</p> <p>24 You know, they're young. I know all</p> <p>25 their mothers and their grandmothers and their daddies</p>	<p style="text-align: right;">49</p> <p>1 A. Oh, I will.</p> <p>2 Q. So your staff issues birth certificates; is</p> <p>3 that correct?</p> <p>4 A. Yes.</p> <p>5 Q. And is your staff trained to issue the</p> <p>6 reduced-fee birth certificates if a person needs one for</p> <p>7 a photo ID?</p> <p>8 A. No. I didn't know anything about it. There's</p> <p>9 a possibility that the other girls did.</p> <p>10 Q. Has the county done anything to advertise that</p> <p>11 if a person needs a birth certificate to get a photo ID</p> <p>12 to vote, that the county offers reduced-fee birth</p> <p>13 certificates?</p> <p>14 A. No.</p> <p>15 Q. Okay. If a person shows up at the poll -- I</p> <p>16 know you've said multiple times that it's a small</p> <p>17 county, people tend to know each other.</p> <p>18 If a person shows up at the poll and</p> <p>19 maybe their name has changed because of marriage and so</p> <p>20 the name on the voter list is different than the name on</p> <p>21 their ID, is it common that the person who's looking at</p> <p>22 their ID would know them?</p> <p>23 A. It's common that we know them, but we do a</p> <p>24 correction.</p> <p>25 Q. Okay. So you would do a correction. But if</p>

50

1 they came in and their name had changed since they had
2 registered to vote, or vice-versa, the person at the
3 polls would tend to know the person?

4 **A. I would say more -- the workers are within
5 their polls, they know their people. But we don't
6 depend on that. They have to show their ID.**

7 Q. Right. So they have to show their ID, but if
8 a person came in and their ID -- the information on
9 their ID had changed since they registered to vote, or
10 they had, you know, registered to vote more recently and
11 their information had changed since they got their ID,
12 is it likely that the person at the poll would know them
13 so they would know that it was the right person showing
14 the ID?

15 **A. I would say yes. They would know them.**

16 Q. If they didn't know them and the information
17 didn't match, what do you think the poll worker would
18 do?

19 **A. Only make them vote provisionally.**

20 Q. Okay. And would they -- are election clerks
21 allowed to ask for other documents to see if the voter
22 is who they say they are?

23 **A. Yes.**

24 Q. And what kind of other documents might an
25 election clerk ask for?

51

1 **A. Well, they can use a Visa, they can use a -- I
2 can't think right now. A gas bill, an insurance card.**

3 Q. So a person could show up at the polls with a
4 photo ID and a gas bill and say, "Hey, my name is
5 changed, but I am who I say I am"?

6 **A. Yes.**

7 Q. Okay. And if the person comes back to the
8 county office, and now they want to prove who they say
9 they are --

10 **A. We send them a letter.**

11 Q. You send them a letter. And what does the
12 letter say?

13 **A. That letter tells them whether their vote
14 counted and why, if it didn't. And it also registers
15 them to vote.**

16 Q. The letter registers them to vote?

17 **A. No. When they issue -- we make them do a
18 card. Well, when it's put in that green envelope, that
19 registers them to vote.**

20 Q. So they will be registered in the future?

21 **A. Yes.**

22 Q. But you may have some voters who are already
23 registered but may have to cast provisional ballots; is
24 that correct?

25 **A. Very -- that would be very, very few. I mean,**

52

1 **that would be on a -- I don't think it would be very
2 much at all. Do you?**

3 MS. HOUSTON: We will have some.

4 **A. Some.**

5 Q. (By Ms. Simson) Some provisional voters. And
6 if a person were to cast a provisional ballot because
7 they didn't have a photo ID, they have to come back
8 within six days to prove who they say they are; is that
9 correct?

10 **A. Uh-huh.**

11 Q. And when they come back, could they bring a
12 gas bill or some other documents with them to show who
13 they are?

14 **A. Uh-huh.**

15 Q. And is that a "yes"?

16 **A. Yes. I'm sorry.**

17 Q. No problem. Are you familiar with the
18 religious exemption in S.B. 14?

19 **A. No.**

20 Q. Do you know -- so you are not aware that under
21 S.B. 14 somebody could come to the voter registrar's
22 office after the election and say, "I have an objection
23 to being photographed," as a religious objection?

24 **A. Yes.**

25 Q. And are you aware of the disability exemption

53

1 under S.B. 14?

2 **A. Yes.**

3 Q. And what does the disability exemption allow?

4 **A. For us to mail them a ballot.**

5 Q. So that's the mail ballot, but are you aware
6 that there's a disability exemption that allows voters
7 who have certain disabilities to vote in person on
8 election day without a photo ID?

9 **A. Yes.**

10 Q. Has anybody in the county applied for a
11 disability exemption?

12 **A. No.**

13 Q. Do you know if the county has advertised that
14 there is a disability exemption to showing photo ID?

15 **A. No.**

16 Q. Are the election workers trained on the fact
17 that there may be some people who present a voter
18 registration card without a photo ID who are allowed to
19 vote because of a disability?

20 **A. No.**

21 Q. Did you do any sort of analysis after these
22 elections to figure out whether S.B. 14 had an effect on
23 the elections?

24 **A. No.**

25 MS. SIMSON: I don't have any more

<p style="text-align: right;">54</p> <p>1 questions at this time. So I will see if -- Bruce, are</p> <p>2 you on the phone?</p> <p>3 MR. GEAR: I am on the phone, and I do</p> <p>4 have some questions.</p> <p>5 EXAMINATION</p> <p>6 BY MR. GEAR:</p> <p>7 Q. You were asked about the disability exemption,</p> <p>8 and I just wanted to be clear for the record, and for my</p> <p>9 purposes, were you aware of the existence of a</p> <p>10 disability exemption?</p> <p>11 A. Can you say that again?</p> <p>12 Q. Are you aware -- or are you aware of the</p> <p>13 existence of a disability exemption under S.B. 14?</p> <p>14 Senate Bill 14, to be clear.</p> <p>15 A. Yes.</p> <p>16 Q. Pardon? Did you not hear the question?</p> <p>17 A. Yes, I heard it. Yes, I'm aware.</p> <p>18 Q. Do you know how a voter can obtain a</p> <p>19 disability exemption in Jasper County?</p> <p>20 A. There's a form that they have to present to a</p> <p>21 doctor, and that doctor has to complete that form and</p> <p>22 give it back to the voter registrar.</p> <p>23 Q. And that's based on your understanding that</p> <p>24 the only way a voter can obtain a disability exemption</p> <p>25 pursuant to S.B. 14 or Senate Bill 14?</p>	<p style="text-align: right;">56</p> <p>1 more?</p> <p>2 A. If they were out of the county, I would say</p> <p>3 that would be a mail-out ballot to them.</p> <p>4 Q. Are you familiar with the religious objection</p> <p>5 under S.B. 14, or Senate Bill 14?</p> <p>6 A. That question has been asked, and I said no.</p> <p>7 Q. Do you know how an individual would go about</p> <p>8 obtaining a religious exemption --</p> <p>9 A. No, I don't.</p> <p>10 Q. -- under S.B. 14?</p> <p>11 A. No, I don't.</p> <p>12 Q. Have you provided any training to your poll</p> <p>13 workers or election judges regarding exemptions under</p> <p>14 S.B. 14, or Senate Bill 14?</p> <p>15 A. I've already answered that. Yes, I have.</p> <p>16 Q. And what was that training based upon?</p> <p>17 A. What we received from the Secretary of State.</p> <p>18 Q. Are you aware of whether any voter in Jasper</p> <p>19 County has applied for a disability exemption?</p> <p>20 A. No, there has not. Other than -- not under</p> <p>21 S.B. -- not under that, no, no. We have had them apply</p> <p>22 through a doctor, but not under this.</p> <p>23 Q. If I understood your testimony correctly, you</p> <p>24 understand that the disability exemption under S.B. 14</p> <p>25 to require a doctor's -- something from a doctor?</p>
<p style="text-align: right;">55</p> <p>1 A. That's all I know, yes. That's the only way I</p> <p>2 know.</p> <p>3 Q. And did I understand your prior testimony that</p> <p>4 you had not advertised the disability exemption in</p> <p>5 Jasper County?</p> <p>6 A. No.</p> <p>7 Q. Are you familiar with the natural disaster</p> <p>8 exemption under S.B. 14?</p> <p>9 A. No, I'm really not.</p> <p>10 Q. Do you know how a voter would go about</p> <p>11 obtaining a natural disaster exemption pursuant to</p> <p>12 S.B. 14?</p> <p>13 A. I would suppose it would be just like a ballot</p> <p>14 by mail, if you're talking about them having to</p> <p>15 evacuate. Is that what you're talking about?</p> <p>16 Q. Well, I'm just trying to understand your</p> <p>17 knowledge of exemptions. And I'm trying to understand</p> <p>18 what your understanding is of the natural disaster</p> <p>19 exemption.</p> <p>20 A. I'm really not familiar with it. I would just</p> <p>21 assume that -- he would take my natural -- I mean, my --</p> <p>22 what would come to me naturally, and do what I thought</p> <p>23 best.</p> <p>24 Q. When you say what would come to you naturally</p> <p>25 and do what you can, can you explain that a little bit</p>	<p style="text-align: right;">57</p> <p>1 A. Yes.</p> <p>2 Q. Do you have any opinion as to whether or not</p> <p>3 it's difficult to obtain a natural disaster exemption?</p> <p>4 A. I would say no.</p> <p>5 Q. And what's that understanding based upon?</p> <p>6 A. We try to provide everybody with the right to</p> <p>7 vote.</p> <p>8 Q. Has anybody claimed a natural disaster</p> <p>9 exemption in your county?</p> <p>10 A. Has there been one?</p> <p>11 Q. Been one, correct.</p> <p>12 A. No. It just so happens, we haven't had a</p> <p>13 natural disaster during an election.</p> <p>14 Q. Do you know who has the authority to authorize</p> <p>15 the availability of a natural disaster exemption?</p> <p>16 A. Our county judge, and our commissioners. Our</p> <p>17 county judge has the authority, the full authority.</p> <p>18 Q. Okay. And in discussing the election</p> <p>19 identification certificates, it's my understanding</p> <p>20 you're not familiar with that term; is that correct?</p> <p>21 A. I'm familiar with it.</p> <p>22 Q. Do you have any understanding as to the</p> <p>23 process an applicant would have to go through to obtain</p> <p>24 an election identification certificate?</p> <p>25 A. Well, I really don't know, to tell you the</p>

<p style="text-align: right;">58</p> <p>1 truth. I'm not going to profess I do, other than</p> <p>2 applying for one -- I don't know if we have a form for</p> <p>3 it or not. We don't have a form.</p> <p>4 Q. Do you have any understanding as to where an</p> <p>5 applicant would apply for an election identification</p> <p>6 certificate?</p> <p>7 A. Well, I suppose with us, or with the Secretary</p> <p>8 of State, DPS.</p> <p>9 Q. Are you aware of any voters or applicants</p> <p>10 requesting an election identification certificate from</p> <p>11 your office?</p> <p>12 A. No.</p> <p>13 Q. Have you trained your employees on how to</p> <p>14 issue election identification certificates?</p> <p>15 A. We don't issue them because we do not have the</p> <p>16 software to do that, or the means to do that.</p> <p>17 Q. Okay.</p> <p>18 A. Or the funds.</p> <p>19 Q. And when you say "or the funds," can you</p> <p>20 explain a little bit more, please?</p> <p>21 A. Correct. We are on a limited budget.</p> <p>22 Q. And that does not include the ability to issue</p> <p>23 election identification certificates?</p> <p>24 A. No, I don't suppose we would have to -- I</p> <p>25 mean, it costs money to do that. You'd have to have</p>	<p style="text-align: right;">60</p> <p>1 Q. Correct?</p> <p>2 A. Yes.</p> <p>3 Q. You talked about delayed birth, and I may have</p> <p>4 misunderstood that. Could you explain to me what</p> <p>5 delayed birth -- a delayed birth certificate is?</p> <p>6 A. That would be somebody who applied for a birth</p> <p>7 certificate after they were grown. I'm just going to do</p> <p>8 a simple synopsis of it.</p> <p>9 They would apply for a birth certificate</p> <p>10 after they were grown. They would have to get</p> <p>11 verification and witnesses saying who their mother and</p> <p>12 their father were, afterwards.</p> <p>13 That is a delayed birth, and it would go</p> <p>14 in our records later on in their life. Sometimes they</p> <p>15 didn't get one until they were 65 years old when they</p> <p>16 started to get Social Security.</p> <p>17 Q. And under what circumstances would somebody</p> <p>18 seek a delayed birth certificate?</p> <p>19 MR. KEISTER: Objection; form. Calls for</p> <p>20 speculation.</p> <p>21 Q. (By Mr. Gear) If you know.</p> <p>22 A. What would cause them to get one?</p> <p>23 Q. Under what circumstances would someone need to</p> <p>24 seek a delayed birth certificate?</p> <p>25 A. They might want it for genealogy. They might</p>
<p style="text-align: right;">59</p> <p>1 cameras, you would have to have someone trained to do</p> <p>2 that. I would have to have another person to do that.</p> <p>3 Q. And one more line of questioning regarding the</p> <p>4 election identification certificates. Do you have any</p> <p>5 understanding of what the underlying document an</p> <p>6 applicant would need to present to apply for an election</p> <p>7 identification certificate?</p> <p>8 A. They would have to have a birth certificate.</p> <p>9 They would have to have -- whatever we have to have now</p> <p>10 --</p> <p>11 Q. I'm sorry. Were you done?</p> <p>12 A. We don't have the requirements to do this.</p> <p>13 Hold on.</p> <p>14 Q. Again, I'm just asking you: Do you have any</p> <p>15 understanding as to what documents an applicant would</p> <p>16 have to present to obtain an election identification</p> <p>17 certificate?</p> <p>18 A. I don't believe we have been given that</p> <p>19 information.</p> <p>20 Q. You provided some testimony regarding birth</p> <p>21 certificates, and I understand that your office issues</p> <p>22 birth certificates; is that accurate?</p> <p>23 A. Correct.</p> <p>24 Q. And the cost for a birth certificate is \$23.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">61</p> <p>1 want it for Social Security. They might want it for</p> <p>2 their children, various reasons.</p> <p>3 Q. Have you ever heard the term "midwife"?</p> <p>4 A. Yes.</p> <p>5 Q. Do you want me to repeat the question?</p> <p>6 A. I said yes, I have. I know what a midwife is.</p> <p>7 Q. And do you have practicing midwives in Jasper</p> <p>8 County?</p> <p>9 A. No, we don't.</p> <p>10 Q. Is there some law or regulation that prevents</p> <p>11 the practice of midwives in Jasper County?</p> <p>12 A. No, there's not.</p> <p>13 Q. Are you aware of Jasper County residents that</p> <p>14 have been born by midwives?</p> <p>15 A. No, I'm not.</p> <p>16 Q. Hypothetically, if a Jasper County resident</p> <p>17 was born by a midwife, or born at home, how would they</p> <p>18 go about obtaining a birth certificate?</p> <p>19 MR. KEISTER: Objection; form. Calls for</p> <p>20 speculation. The witness testified she doesn't know.</p> <p>21 Q. (By Mr. Gear) Let me clarify that. If a</p> <p>22 person was born at home and not in a hospital in Jasper</p> <p>23 County, what process would they have to go through to</p> <p>24 obtain a birth certificate in your office?</p> <p>25 A. They actually come in and fill out a form with</p>

<p style="text-align: right;">62</p> <p>1 our office and submit it to Austin.</p> <p>2 Q. And is -- is that a \$23 fee to accomplish</p> <p>3 that?</p> <p>4 A. I believe it's a \$25 fee.</p> <p>5 Q. A \$5 fee?</p> <p>6 A. Twenty-five. It does not go to us, it goes to</p> <p>7 the state.</p> <p>8 Q. Do you know how long that process generally</p> <p>9 takes?</p> <p>10 A. It could be 30 days, it could be six months.</p> <p>11 I don't know. It's a variation of it.</p> <p>12 Q. And have you actually had a situation where a</p> <p>13 Jasper County resident needed a birth certificate</p> <p>14 because they were born at home?</p> <p>15 A. Yes.</p> <p>16 Q. And it could take anywhere from 30 days to six</p> <p>17 months because of the variation?</p> <p>18 A. Yes.</p> <p>19 Q. What type -- could you explain that variation</p> <p>20 to me? I'm not sure I understood that.</p> <p>21 A. Well, that goes to the state. It doesn't have</p> <p>22 anything to do with us. So from the point of going to</p> <p>23 the state, it's left up to the state to issue that, not</p> <p>24 us. We do get a copy of it to file in our records for</p> <p>25 permanent keeping.</p>	<p style="text-align: right;">64</p> <p>1 taxi actually picks up and drops off in terms of Jasper</p> <p>2 County as a whole?</p> <p>3 A. No, sir.</p> <p>4 Q. Would you agree that a person living in rural</p> <p>5 Jasper County who lacked transportation but needed to</p> <p>6 get to the DPS office, that that could be a substantial</p> <p>7 cost, as far as taxi service is concerned?</p> <p>8 MR. KEISTER: Objection; form.</p> <p>9 A. I'm not aware of the cost.</p> <p>10 Q. (By Mr. Gear) But you agree there would be a</p> <p>11 cost associated for an individual who has to get a taxi</p> <p>12 service and needs to get to DPS?</p> <p>13 MR. KEISTER: Objection; form. Vague.</p> <p>14 Calls for speculation.</p> <p>15 Q. (By Mr. Gear) You can answer.</p> <p>16 A. I'm sure it would cost.</p> <p>17 Q. Your answer is "yes"?</p> <p>18 A. Yes.</p> <p>19 Q. Would you agree that there is a cost to obtain</p> <p>20 a Texas driver's license?</p> <p>21 A. From my own personal experience, yes.</p> <p>22 Q. And do you know what the cost to obtain a</p> <p>23 Texas driver's license is?</p> <p>24 A. I'm not sure.</p> <p>25 Q. From your own personal experience, how much?</p>
<p style="text-align: right;">63</p> <p>1 Q. If I understood that last part of your</p> <p>2 testimony, you would file a record of that birth</p> <p>3 certificate in -- at your office for permanent keeping.</p> <p>4 Did I understand that correctly?</p> <p>5 A. The state would furnish us that, yes. And</p> <p>6 from that point, we could issue a birth certificate to</p> <p>7 that person, from then on, if he should need it, or her</p> <p>8 should need it for any other instances.</p> <p>9 Q. Okay. Focusing on the transportation system,</p> <p>10 the public transportation system in Jasper County. I</p> <p>11 understood your testimony to be that there are no public</p> <p>12 buses available in Jasper County.</p> <p>13 A. Correct.</p> <p>14 Q. And I understood your testimony to be that</p> <p>15 there is a taxi service in Jasper County.</p> <p>16 A. One taxi service, that I'm aware of.</p> <p>17 Q. And do you know if that's based -- where that</p> <p>18 taxi service is based in Jasper County?</p> <p>19 A. Jasper, Texas.</p> <p>20 Q. Is it the City of Jasper? It's in Jasper</p> <p>21 County?</p> <p>22 A. City of Jasper.</p> <p>23 Q. I'm not sure I understand your testimony.</p> <p>24 A. City of Jasper.</p> <p>25 Q. Do you have any understanding as to where that</p>	<p style="text-align: right;">65</p> <p>1 A. I would say \$16.</p> <p>2 Q. \$16?</p> <p>3 A. I believe so.</p> <p>4 Q. Would you also agree that there is a cost to</p> <p>5 obtain a Texas state ID?</p> <p>6 A. I'm not aware that there is a cost for a Texas</p> <p>7 state ID.</p> <p>8 Q. Could you clarify for me where the DPS office</p> <p>9 is located in Jasper County?</p> <p>10 A. It is located approximately five miles -- one</p> <p>11 mile out of the city limits. Maybe not a mile, maybe a</p> <p>12 hundred yards, out of the city limits.</p> <p>13 Q. Are you aware of the poverty rate in Jasper</p> <p>14 County? Do you have any knowledge of that?</p> <p>15 A. No, I don't. I'm not an expert in that.</p> <p>16 Q. Describing the county demographically, is</p> <p>17 there any location in Jasper County that's likely to</p> <p>18 have individuals who live below the poverty line?</p> <p>19 A. I'm sure there are, but I'm not sure where</p> <p>20 they're at. That's not my expertise of location of</p> <p>21 poverty.</p> <p>22 Q. So, for instance, do you have any low-income</p> <p>23 housing in Jasper County, that you're aware of?</p> <p>24 A. We do.</p> <p>25 Q. And can you tell me where those low-income</p>

66

1 housing facilities are located?

2 A. One on -- two on 190 east and west.

3 Q. East and west?

4 A. Yes.

5 Q. And is that located in any particular city?

6 A. Jasper.

7 Q. Jasper?

8 A. And there's also one called Sweetbriar on MLK.

9 Let me correct myself. There are four within the city.

10 Q. Have you or the county made any attempts to

11 reach out to these low-income housing complexes

12 regarding S.B. 14?

13 A. No.

14 Q. And can you tell me -- because I don't know,

15 these low-income housing complexes, can you tell me the

16 racial make-up of these complexes?

17 A. I don't know.

18 Q. Can you tell me the percentage of

19 African-Americans, or minorities in general, in Jasper

20 County?

21 A. I'm thinking, just a moment.

22 MR. KEISTER: Bruce, when you get to a

23 convenient stopping place, I need to take a break.

24 We've been going for a while.

25 MR. GEAR: Let her answer this question.

67

1 MR. KEISTER: I understand. I'm giving

2 you the heads up. I'm crossing my legs.

3 A. I really don't know. I would say racially, 30

4 to 35 percent black. It's depending on which end of the

5 county you're talking about.

6 The south end of the county is primarily

7 white. The north end of the county is a big portion of

8 black. But I'm not familiar with how many.

9 Q. (By Mr. Gear) When you talked about 190 east,

10 what end of town would those be on?

11 A. There is one -- there is actually four.

12 Q. Okay.

13 A. And one is east of the Jasper City limits.

14 One is within the city limits of Jasper, west.

15 Q. That's two.

16 A. Okay. Sweetbriar is on MLK. And Hope

17 Village, the projects, is within the city limits.

18 Q. That's Hope Village?

19 A. Hope Village. And Merits Village, which is

20 both black and white, and that's east.

21 Q. I know people want to take a break. Hope

22 Village, are you familiar with the general racial makeup

23 of Hope Village?

24 A. Mostly black, but I'm not going to say for

25 sure, no.

68

1 Q. Would you describe --

2 A. I have not been in there. I have not been in

3 and gone door to door --

4 Q. Okay.

5 A. -- to know who lives there.

6 Q. But you described certain areas of the city as

7 being predominantly white or predominantly black. Would

8 Hope Village fall into the area that you described as

9 predominantly African-American or black?

10 A. Yes.

11 Q. Did you say one of the housing complexes is

12 Switchburn (sic)?

13 A. Sweetbriar.

14 Q. Okay. And would that be in an area that you

15 would describe as predominantly white or predominantly

16 black?

17 A. Black.

18 Q. Then you identified one of the complexes as

19 being on the east end. Do you remember the name of that

20 complex?

21 A. Merits Village.

22 Q. And would you describe that as being an area

23 that's predominantly white or predominantly black?

24 A. It's both, mixed.

25 Q. What about the housing complex you described

69

1 on the west end, do you know the name of that housing

2 complex?

3 A. Manor Apartments.

4 Q. Would you describe that in an area that's

5 predominantly white or predominantly black?

6 A. Manor Apartments is mixed.

7 Q. When you say mixed, you're talking minority

8 and white population --

9 A. Yes.

10 Q. -- non-Hispanic population? And just to

11 finish up this line of questioning, could you tell me

12 generally what the percentage of Hispanic population is

13 in Jasper County?

14 A. Very few.

15 Q. Very few. And I guess --

16 A. Are you talking legal or illegal?

17 Q. Do you know what percentage the population is?

18 A. Are you talking legal or illegal?

19 Q. Well, you tell me.

20 A. I don't know.

21 Q. When you say very few --

22 A. There is a community called Taco Flats, which

23 is primarily Spanish.

24 MR. GEAR: Okay. Maybe this is a good

25 place to take a break.

<p style="text-align: right;">70</p> <p>1 (Recess from 4:30 p.m. to 4:35 p.m.)</p> <p>2 Q. (By Mr. Gear) I'm Bruce Gear. I'm asking</p> <p>3 questions on behalf of the United States. I'm not sure</p> <p>4 I noted my appearance for the record. Going back to</p> <p>5 talking about the housing called Taco Flats.</p> <p>6 A. Yes.</p> <p>7 Q. Is that the official name of the apartment</p> <p>8 complex?</p> <p>9 A. No, it's not a -- it is not a -- it is only a</p> <p>10 community with a local name.</p> <p>11 Q. And the local name is?</p> <p>12 A. Taco Flats.</p> <p>13 Q. And that community is predominantly Hispanic,</p> <p>14 I believe you testified to.</p> <p>15 A. Yes.</p> <p>16 Q. Do I need to repeat that question?</p> <p>17 A. Yes, it's predominantly, yes.</p> <p>18 Q. Predominantly Hispanic?</p> <p>19 A. Yes.</p> <p>20 Q. And the answer is "yes"?</p> <p>21 A. Yes.</p> <p>22 Q. And has the county made any attempts to reach</p> <p>23 out to the community known as Taco Flats that is</p> <p>24 predominantly Hispanic, related to S.B. 14?</p> <p>25 A. No.</p>	<p style="text-align: right;">72</p> <p>1 A. No. We -- I do not believe that we have voter</p> <p>2 fraud.</p> <p>3 Q. And just so I'm clear, the question was: Do</p> <p>4 you have an opinion as to whether or not voter</p> <p>5 impersonation fraud at the polls --</p> <p>6 A. No, I don't believe we do. We've had it on</p> <p>7 two occasions, but that's been very selective. I mean,</p> <p>8 no, I don't believe we have voter fraud.</p> <p>9 Q. And those are the two occasions that you</p> <p>10 already testified to?</p> <p>11 A. Correct.</p> <p>12 Q. Do you have any evidence to support that the</p> <p>13 prior law, the prior election law to S.B. 14 was</p> <p>14 inadequate in any way?</p> <p>15 A. No.</p> <p>16 Q. Do you have an opinion as to whether the law</p> <p>17 that was in place prior to S.B. 14 -- and I'm speaking</p> <p>18 specifically of the election law -- was inadequate?</p> <p>19 MR. KEISTER: Objection; form.</p> <p>20 A. I don't believe it was inadequate, no.</p> <p>21 Q. (By Mr. Gear) Based on your experience as an</p> <p>22 election official and a county official, do you have an</p> <p>23 opinion as to whether or not the voter registration card</p> <p>24 was sufficient to prove a person's identity at the</p> <p>25 polling place?</p>
<p style="text-align: right;">71</p> <p>1 Q. You testified previously regarding ads that</p> <p>2 had been published by the county. Do you recall that</p> <p>3 testimony --</p> <p>4 A. Yes.</p> <p>5 Q. -- related to S.B. 14?</p> <p>6 A. Yes.</p> <p>7 Q. Okay.</p> <p>8 A. We provided -- we didn't specifically say</p> <p>9 S.B. 14. We said, you know, voter identification.</p> <p>10 Q. Do you know if those ads were in any other</p> <p>11 language, other than English?</p> <p>12 A. I really don't. I'm sure they were, but I</p> <p>13 really don't. We always put everything in Spanish and</p> <p>14 in English.</p> <p>15 Q. As you sit here today, you're not aware?</p> <p>16 A. I'm not.</p> <p>17 Q. You're not aware of whether the ads --</p> <p>18 A. I cannot recall.</p> <p>19 Q. Are you familiar with the term "popularized</p> <p>20 voting"?</p> <p>21 A. No.</p> <p>22 Q. Do you believe -- strike that. Prior to the</p> <p>23 implementation of Senate Bill 14, did you have an</p> <p>24 opinion as to whether or not voter impersonation fraud</p> <p>25 was a problem in Jasper County?</p>	<p style="text-align: right;">73</p> <p>1 MR. KEISTER: Objection; form.</p> <p>2 A. I think it was.</p> <p>3 Q. (By Mr. Gear) I'm sorry. The answer was you</p> <p>4 think it was?</p> <p>5 A. I do.</p> <p>6 Q. And just for clarification purposes, at one</p> <p>7 point during your testimony you were talking about two</p> <p>8 women in a particular office, and I didn't catch which</p> <p>9 office you were referring to. Do you recall that</p> <p>10 testimony?</p> <p>11 A. No, I don't.</p> <p>12 Q. Have you heard -- are you aware of any</p> <p>13 complaints from any residents regarding the wait times</p> <p>14 at DPS offices?</p> <p>15 MR. KEISTER: Objection; form.</p> <p>16 A. Yes, I've heard some.</p> <p>17 Q. (By Mr. Gear) And can you tell me the</p> <p>18 substance of those complaints, what the concerns are?</p> <p>19 A. Just a long time getting the card.</p> <p>20 Q. And I'm sorry, I didn't hear you.</p> <p>21 A. Just a long time getting the card was the</p> <p>22 complaint I had.</p> <p>23 Q. And did the complaint that you had -- did they</p> <p>24 describe the length of time it took to obtain the card?</p> <p>25 MR. KEISTER: Objection; form.</p>

<p style="text-align: right;">94</p> <p>1 is aware of the need, or the requirement to show photo</p> <p>2 ID when you vote?</p> <p>3 A. They know to show ID.</p> <p>4 Q. Okay.</p> <p>5 A. It's just something that has been years and</p> <p>6 years and years and years of doing it, and they know to</p> <p>7 show ID. And so you don't have a big problem with that.</p> <p>8 Q. Okay. Do you see a need for Jasper County to</p> <p>9 spend money to undertake additional voter education,</p> <p>10 advertising, or programs to educate the public about the</p> <p>11 requirement?</p> <p>12 A. Who are we talking about paying?</p> <p>13 Q. The county.</p> <p>14 A. The county does not have the money to do it.</p> <p>15 Q. Okay.</p> <p>16 A. In my opinion. We have not had a big problem</p> <p>17 with it.</p> <p>18 Q. Okay.</p> <p>19 A. Do you want my personal opinion?</p> <p>20 Q. Go ahead.</p> <p>21 A. I think everybody has a right to vote. As</p> <p>22 long as they're a legal citizen, I think they have the</p> <p>23 right to vote. We have a hard enough time getting</p> <p>24 someone to vote now.</p> <p>25 You can see what our numbers are out of</p>	<p style="text-align: right;">96</p> <p>1 somebody committing a crime, you don't necessarily know;</p> <p>2 right?</p> <p>3 A. No.</p> <p>4 Q. I guess I don't need to give you an example.</p> <p>5 A. We pride ourselves in our voters. We pride</p> <p>6 ourselves in it.</p> <p>7 MR. KEISTER: Okay. Ms. Newman, I</p> <p>8 appreciate your patience. I pass the witness.</p> <p>9 MS. SIMSON: Bruce, do you have any more</p> <p>10 questions?</p> <p>11 MR. GEAR: I do not have any follow-up</p> <p>12 questions.</p> <p>13 FURTHER EXAMINATION</p> <p>14 BY MS. SIMSON:</p> <p>15 Q. I just have a few more. It will be very</p> <p>16 brief. The first question is: If voters -- if you feel</p> <p>17 that most voters or all voters -- let me rephrase that.</p> <p>18 Do you think that all of the registered</p> <p>19 voters in the county are aware that they now need to</p> <p>20 bring a photo ID to vote?</p> <p>21 A. I am pretty sure that most of them do. Just</p> <p>22 it might not have been advertised as well as it should</p> <p>23 have been.</p> <p>24 And I'm at fault there, and I'll take the</p> <p>25 blame for it. But word of mouth and the news media on</p>
<p style="text-align: right;">95</p> <p>1 35,000 people. It costs just as much to put on one</p> <p>2 election for a thousand people than it does for 35,000</p> <p>3 people.</p> <p>4 We have to estimate that. We have to</p> <p>5 guesstimate how many are going to vote. And if they</p> <p>6 don't, we have to get more ballots.</p> <p>7 Q. Okay. Putting money aside for a moment, do</p> <p>8 you see -- forgetting the cost, do you see or think</p> <p>9 there is a need to educate -- to more educate the voters</p> <p>10 in Jasper County that they need to bring one of these</p> <p>11 particular forms of ID that they come to vote?</p> <p>12 A. There is always room for education.</p> <p>13 Q. All right.</p> <p>14 A. But as far as a problem with it in our county,</p> <p>15 we have not had it.</p> <p>16 Q. Okay. With respect to in-person fraud, you</p> <p>17 stated two instances that you're aware of. Certainly</p> <p>18 there could be other instances that you're not aware of,</p> <p>19 these are just two you're aware of; correct?</p> <p>20 A. I'm pretty sure there are not.</p> <p>21 Q. Could there have been some before you became</p> <p>22 county clerk?</p> <p>23 A. I don't think so. She was more strict than I</p> <p>24 was. She was meaner than I was.</p> <p>25 Q. Okay. But obviously, unless you catch</p>	<p style="text-align: right;">97</p> <p>1 television nowadays, they knew.</p> <p>2 Q. And do you think that if a person knew that a</p> <p>3 photo ID is now required and they did not have an ID,</p> <p>4 would they go to vote on election day?</p> <p>5 A. If they didn't have one? I really don't know</p> <p>6 if they would try to do that or not.</p> <p>7 Q. And you said before that your election workers</p> <p>8 are told that even if they know the person, they have</p> <p>9 got to require photo ID?</p> <p>10 A. That's right.</p> <p>11 Q. So if a person doesn't have a photo ID, they</p> <p>12 may think it's not really worth their time to try to go</p> <p>13 vote because they know they will be turned away?</p> <p>14 A. I don't know.</p> <p>15 Q. Okay. The last thing, I'm just going to enter</p> <p>16 this as Exhibit 3.</p> <p>17 (Newman Deposition Exhibit No. 3 was</p> <p>18 marked and is made a part of this deposition.)</p> <p>19 Q. (By Ms. Simson) We'll only go over about two</p> <p>20 of these. If you look at Exhibit 3 on the first page,</p> <p>21 it says, "example one, information on poll book," and</p> <p>22 then beneath that it says, "information on the driver's</p> <p>23 license".</p> <p>24 A. Yes.</p> <p>25 Q. And do you see that the name is different</p>

<p style="text-align: right;">98</p> <p>1 between the information on the poll book and the</p> <p>2 information on the driver's license?</p> <p>3 A. Uh-huh.</p> <p>4 Q. And you see that the date of birth matches?</p> <p>5 A. Uh-huh.</p> <p>6 Q. And do you see that there are different</p> <p>7 addresses listed?</p> <p>8 A. I do.</p> <p>9 Q. If a person came into the poll place and</p> <p>10 presented this driver's license to vote, do you think</p> <p>11 that they would be allowed to vote a regular ballot or a</p> <p>12 provisional ballot?</p> <p>13 MR. KEISTER: Objection; form.</p> <p>14 A. I would think they would vote provisionally.</p> <p>15 Q. (By Ms. Simson) And why do you say that?</p> <p>16 A. Well, the names are not the same, the</p> <p>17 addresses are not the same.</p> <p>18 Q. Okay.</p> <p>19 A. You don't know if they are living within the</p> <p>20 same precinct now.</p> <p>21 Q. And is that -- if you're not sure if they are</p> <p>22 voting in the same precinct, is that something that the</p> <p>23 election clerk asks them about?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And if the person said, "Yeah, my</p>	<p style="text-align: right;">100</p> <p>1 A. I'm sure they would.</p> <p>2 Q. Okay. If we could turn to Page 4, Example 4,</p> <p>3 it says "Example 4" at the top. And do you see that it</p> <p>4 says, "information on the poll book," and it has a name</p> <p>5 that is different from -- there's a first name that's</p> <p>6 different from the name on the driver's license?</p> <p>7 A. Uh-huh.</p> <p>8 Q. And then do you see that the date of births</p> <p>9 are different?</p> <p>10 A. Uh-huh.</p> <p>11 Q. And then you see that the addresses are the</p> <p>12 same?</p> <p>13 A. Yes.</p> <p>14 Q. In this circumstance, do you think that an</p> <p>15 election worker would allow the person to vote a regular</p> <p>16 ballot or a provisional ballot?</p> <p>17 MR. KEISTER: Objection; form.</p> <p>18 A. I don't think they would let them vote because</p> <p>19 the date of births are different. That could be a</p> <p>20 father and son. And we have a lot of that in -- you</p> <p>21 know, just like my son is William Mitchell Newman, the</p> <p>22 third.</p> <p>23 Q. (By Ms. Simson) Okay.</p> <p>24 A. But they know that this is a son and a father.</p> <p>25 Q. And then the last --</p>
<p style="text-align: right;">99</p> <p>1 address changed" --</p> <p>2 A. They do a residency card.</p> <p>3 Q. Okay. And do you think in that circumstance</p> <p>4 they would still have them vote a provisional ballot</p> <p>5 even if they said their address changed?</p> <p>6 A. In this instance?</p> <p>7 Q. Yeah.</p> <p>8 A. In this instance, I think they would have them</p> <p>9 vote provisionally. It will give more names.</p> <p>10 Q. What was that?</p> <p>11 A. It's a possibility it will probably show</p> <p>12 "Johnson" on there, too.</p> <p>13 Q. Okay. So it's possible that if the voter --</p> <p>14 what would have more information?</p> <p>15 A. I really don't know. Hold on a minute.</p> <p>16 I've been advised that this Johnson name</p> <p>17 would probably show up with the Villarreal name.</p> <p>18 However, it's really left up to the judge.</p> <p>19 Q. Okay. So the election judge would look at</p> <p>20 that and make a determination?</p> <p>21 A. Right.</p> <p>22 Q. And do you think that if 100 election workers</p> <p>23 looked at that, that some of them might come up with a</p> <p>24 different answer about whether the person votes</p> <p>25 provisionally or not?</p>	<p style="text-align: right;">101</p> <p>1 A. Or grandfather.</p> <p>2 Q. Sorry. The last example on Page 7, Example 7,</p> <p>3 do you see that it says, "information on the poll book,</p> <p>4 name Beto Ramirez, information on driver's license,</p> <p>5 Roberto Ramirez"?</p> <p>6 A. Uh-huh.</p> <p>7 Q. And then do you see that the date of birth is</p> <p>8 the same?</p> <p>9 A. Yes.</p> <p>10 Q. And then you see that the addresses are</p> <p>11 different?</p> <p>12 A. Yes.</p> <p>13 Q. In this circumstance, do you think the person</p> <p>14 would vote a regular ballot or provisional ballot?</p> <p>15 MR. KEISTER: Object to form.</p> <p>16 A. If they had their driver's license, we would</p> <p>17 check their driver's license number, which would be on</p> <p>18 the voter registration card, or on the poll book.</p> <p>19 Q. (By Ms. Simson) So if a person presents a</p> <p>20 driver's license, you could look up their driver's</p> <p>21 license number on the poll book?</p> <p>22 A. Yes, correct. No. That's when they call us,</p> <p>23 I'm sorry.</p> <p>24 Q. Okay. And what do they do when they call the</p> <p>25 county?</p>